

## **Employment Strategy Papers**

# **Industrial Relations, Social Dialogue and Employment in Argentina, Brazil and Mexico**

**Adalberto Cardoso**

**Prepared for the ILO as part of the studies for the Global Employment  
Agenda**

**Employment Analysis and Research Unit  
Employment Strategy Department**

**2004 / 7**

ISSN 1811-1319

ISBN 92-2-116550-7 (printed version)

ISBN 92-2-116551-5 (WEB pdf)

## Preface

Social dialogue is a powerful tool, that when used effectively, can allow societies to overcome a myriad of problems and build social cohesion. During times of economic change or uncertainty, social dialogue can be instrumental in making job retention and job creation an economic as well as social priority. Beginning in the 1980s and 1990s, the governments of Argentina, Brazil and Mexico underwent dramatic restructuring of their economies as they opened to external competition. The restructuring had tremendous effects on the structure of production in the economies and the labour market, which are yet completely understood. Against this background, this study analyzes how the industrial relations systems of the countries responded to the policy changes that led to restructuring and the role that social dialogue played—or did not play—in protecting employment during this difficult period of adjustment. This analysis is undertaken with the view of creating a healthy environment for balanced social dialogue to address current and future employment challenges.

The study begins with a detailed, historical analysis of the evolution of the industrial relations systems in Argentina, Brazil and Mexico. The author argues that the main feature of the industrial relations system of the three countries is that the law, not collective bargaining, has played the major role in regulating state, labour and capital relations. He explains how the state-led development model dominant until the 1980s was based on a quid pro quo between labour and government in which unions acquiesced to government its potential for collective action, in exchange for political recognition and autonomy in gaining control of their constituencies. This agreement was bound by federal laws which, in turn, regulated collective labour relations and bargaining. Central to the agreement between government and labour as well as employers' organisations (which also benefited from the protection of the state), was the insistence on employment laws to guarantee job security.

Because of the historical tradition of regulating state, labour and capital relations via the legal system, social dialogue—defined as formal, state-led or state-mediated forms of social and political consultation—has not played an important role in policy reforms, despite the existence of tripartite mechanisms for consultation, particularly in Mexico. Because well-defined regulations guided actions during ISI, the weakness of social dialogue was not a major concern. Yet with the opening of the economies in the 1980s and 1990s and the concomitant economic restructuring, the lack of a 'strong and autonomous' labour movement meant that workers' interests—particularly employment creation—did not get their deserved attention. Moreover, because restructuring led to widespread job loss in the highly unionized sectors of traditional manufacturing and the newly privatized state enterprises, unions found themselves severely weakened at a time when workers most needed them. Falling unionization rates coupled with the initial acceptance of the reforms by labour in Argentina and Mexico, has led to a certain de-legitimization.

Nevertheless, there have been some positive outcomes amidst the turmoil. First, the vacuum left by labour during economic restructuring has led to the emergence of 'new social movements,' that have worked to improve democracy in the three countries, even though their future role in policy negotiations is uncertain. Within this group, are new, more independent unions in Argentina and Mexico, advocating greater freedom of association. Second, there have been recent examples of successful social dialogue leading to employment creation, such as the agreements taken by the social partners of the ABC region of São Paulo, Brazil, which led to improvements in the efficiency of production and job retention despite contrary employment trends in the industry. At the national level, the

National Labour Forum convened by the Lula government has been successful in reaching consensus on a number of difficult issues concerning the proposed reform of labour law.

The author ends his analysis by arguing for a ‘new social contract,’ in the three countries, “not based on the nostalgia of the ISI period,” but on recognition of the need to provide socio-economic security for workers to the benefit of society, as opposed to the current trend of individualistic employment policies. He adds that this new social contract requires democracy in labour relations and in the political system, whereby labour has the willingness and capacity to negotiate on equal terms with the social partners.

The study forms part of the comparative study on employment creation in Argentina, Brazil and Mexico, undertaken by the Employment Analysis and Research Unit of the Employment Strategy Department. The objective of the study is to propose recommendations, for submission to the social partners, with respect to the creation of employment in these countries, based on an analysis of four policy areas: macroeconomic policy, trade and regional policy, labour market policies and social dialogue. The study is part of the implementation of the Global Employment Agenda, the employment arm of Decent Work.

Peter Auer  
Chief  
Employment Research and Analysis Unit

Duncan Campbell  
Director a.i.  
Employment Strategy Department

## **Acknowledgements**

I would like to thank Hector Palomino, Cecilia Senen and Marta Novick for allowing me access to recent, ongoing research and data on many of the topics discussed here. Most of all, I thank Graciela Bensusán, coordinator of a comparative research on the relations between labour law and labour market and economic performance in Latin America, whose generosity and critical verve has been decisive for the findings reported here.

## **Disclaimer**

The analysis, opinions and errors expressed here are my own and do not obligatory reflect the views of the ILO.

## Contents

<b>PREFACE</b>	<b>III</b>
<b>ACKNOWLEDGEMENTS</b>	<b>V</b>
<b>I. INTRODUCTION</b>	<b>1</b>
<b>II. INDUSTRIAL RELATIONS</b>	<b>3</b>
Beginnings	4
Union Responses to Economic Restructuring	11
Union Structure	16
Union Density	21
Collective Bargaining	24
Collective Action	34
New social agents and social movements	38
A future for the labour movement?	42
Social Dialogue	45
<b>III. LABOUR MARKET REGULATIONS: CHANGES AND PERSISTENCE</b>	<b>54</b>
<b>IV. RECOMMENDATIONS</b>	<b>59</b>
<b>REFERENCES</b>	<b>70</b>
<b>APPENDIX</b>	<b>77</b>

## I. Introduction

Argentina, Brazil and Mexico have undergone sweeping transformations to their economic and social structures as a result of economic liberalization and integration. The package of policies emanating from the so-called ‘Washington consensus’, which most analysts have named neoliberal economic policies, have affected in different ways, scope and depth the former systems of industrial relations, labour market regulation and dynamics, and social dialogue. As part of a major effort from the ILO to foster employment in Latin America, within the Global Employment Agenda, the main goal of this study is to measure the effects of neoliberal economic restructuring on industrial relations and social dialogue, in order to support the ILO’s policies concerning employment creation.

Although social dialogue has never played a central role in most Latin American countries, it is now an established notion in labour relations worldwide. Strongly enforced by the ILO since it became one of its four strategic goals – along with labour rights, employment and social protection – social dialogue has replaced notions such as social conflict, class struggle and class conflict in the analysis of social relations. It denotes a society in which these conflicts are viewed from the perspective of their possible democratic, consensual solution and, from this point of view, it does not deny the diversity of the economic and social interests of employers, employees and the state. The notion of social dialogue simply does not denote these interests as contradictory or irreducible. The ILO’s definition of social dialogue, however, is vague. It includes “all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy”, as can be read on the Office’s home page. If this definition is to be taken seriously, all kinds of social and political encounters of social agents can be defined as social dialogue. It may be an interesting tool for the broader political action of the Office, but not for empirical scrutiny.

Because I focus on labour relations, in this report I maintain a stricter notion of social dialogue. In what follows, only formal, state-led or state-mediated forms of social and political consultation will be considered ‘social dialogue’. This approach equates social dialogue with ‘social concertation’, a notion also well established in the specialized literature since at least the mid-seventies (Lembruch, 1984) and which denotes mechanisms of consultation of interest groups’ organizations in policy making.<sup>1</sup> Collective bargaining, also included in the ILO’s definition of social dialogue, is treated in a more traditional fashion, that is to say, as a process of negotiation of divergent interests concerning wages and working conditions (including industrial restructuring, job security and employment creation), which results in gains and losses that directly affect salaries and profits and, thus, employment levels (Blyton and Turnbull, 1994: 169-200).

In this more strict (and empirically viable) view of social dialogue, only Mexico has a long and stable tradition of consultation, although the “heteronymous” character of the organizations representing labour and capital has meant that these negotiations have served to legitimize state-designed public policies. Employment creation was always part of the agenda of the economic pacts of the 1980s and 1990s in Mexico, but little has effectively been done in this particular direction. In fact, I intend to show that social dialogue at a

---

<sup>1</sup> Offe (1985: chap. 12) called ‘attribution of public status to interest groups’ to the process of recognition, by the state, of the organizations of labour and capital in policy making.

broader level, and collective bargaining at a lower level of labour relations, cannot do much in terms of employment creation in a macroeconomic environment devoted to deflationary policies, which tend to restrict economic growth or, at least, to deeply harm employment in manufacturing. Most of all, I will show that neoliberal economic policies had profound social impacts, weakening the traditional organizations of labour and capital, who used to be the voices of social concertation. Social dialogue (in this more strict, political sense that I am referring to) is only possible where interest groups' organizations are strong and autonomous. Economic restructuring, however, has jeopardized these groups' power and their capacity for autonomous social and political action. In the vacuum of the traditional political actors, new social agents arose everywhere demanding employment, food, land, recognition and dignity.

This report is divided into three main sections. The first discusses the industrial relations' systems in Brazil, Argentina and Mexico and the impact of economic restructuring on the patterns of the relations between the state, labour and capital. It begins with a historical discussion of the consolidation of the systems, continues with a brief description of the major trends of change and then analyses the effects of these changes on the patterns of collective action, union structure, union density, collective bargaining and social dialogue. The second section discusses in broader terms the changes in labour legislation in the three countries, trying to understand the differences in scope and timing of this change and also in the patterns of the social dialogue and the role of the strategic actors in each country. In the concluding section I advance some recommendations.



## II. Industrial Relations

The industrial relations systems (IRS) of Latin America have faced strong pressures for change in the last 20 years, resulting from the adoption of coherent market-oriented reforms away from the previous model of economic development based on import-substitution industrialization (ISI). The pressures did indeed produce some major effects in Argentina in the 1990's, although the Brazilian and the Mexican IRS happened to resist quite formidably to a trend that most analysts have regarded as unavoidable. Nevertheless, it is unquestionable that labour regulations, union structures, collective action, patterns of dialogue between capital and labour, patterns of state intervention and every single issue of each nation's IRS have suffered at least minor changes.

Broadly speaking, the industrial relations' systems of most Latin American countries evolved and consolidated as an integral part of the very process of economic and political incorporation of the masses in the emerging 'polyarchies' of the first part of the 20<sup>th</sup> century. Most of all, these systems helped to pave the way for the intense and sometimes pervasive process of economic development based on industrialization via import substitution sponsored by more or less authoritarian, more or less populist, more or less democratic States. Argentina, Brazil and Mexico, along with Venezuela and Peru, are typical cases of the strong symbiosis between economic development, on the one hand, and state control over the emerging social forces that the development itself helped to shape. Despite some important specificities of each historical process of consolidation, one cannot understand the configuration of the IRS in these countries without immediate reference to the role of the State in shaping the nature, scope and direction of the economic and political development.

Beginning in 1917 with the Mexican Revolution, the process of incorporation of the emerging working classes (and sometimes of the peasantry as well) and the consolidation of the IRS was basically over by 1955, when Juan Domingo Perón was withdrawn from office by a military coup in Argentina, one year after the suicide of Getulio Vargas in Brazil. In each country, ten to fifteen years have been sufficient for the consolidation of the legal and political framework in which capital, labour and the State would meet, negotiate and solve their conflicts in the decades to come, in more or less authoritarian ways at different historical junctures.

Some authors have named the model consolidated in these countries a 'social protection model' (as opposed to a more liberal, flexible model), in which a strong State would act as mediator between labour and capital to ensure harmonious relations, and where the State would protect individual workers through legislation aiming at, among other things, guaranteeing workers rights of ownership over their jobs, for instance via high dismissal barriers or explicit tenure regulations. In fact, employment laws in the three countries and in many others in Latin America were based on one major and overarching premise: job security (Cook, 1998: 4). Collective labour relations and bargaining were also regulated by federal laws, including the control of unions and their potential for collective action, in exchange for political recognition and for granting control over their constituencies. For this reason, the main feature of the IRS in the three countries is that the law - not collective bargaining - plays the major role in the regulation of state/labour/capital relations. Collective bargaining and social dialogue are present, of course, but they have tended to have a subsidiary stance. This model began to change in the 1980's, but most of its original design still holds.

## ***Beginnings***

The industrial relations systems of the three countries have many important similarities, but the differences cannot be overstated. They have to do both with the process of consolidation of the relations between State and society and with the scope and timing of the political and economic changes in recent years. In this section I will briefly discuss the process of the shaping of State/labour/capital relations in the three countries, highlighting those elements that will contribute to an understanding of the present.

If the IRS in the three countries are very stable over time, the Mexican is by far the most stable in Latin America. The major lines of the still effective labour relations legislation were established back in 1917, when the Mexican labour law was inscribed in the Federal Constitution (Art. 123) by the leaders of the Mexican Revolution (of 1910)<sup>2</sup>. By 1931, with the edition of the Federal Law of Labour (Ley Federal del Trabajo - LFT), the legal foundation of the labour market and its institutions was in place. The long lasting character of the Mexican IRS results from the fact that, from the very beginning, the so called “social problem” was treated by the revolutionary as a crucial aspect of the political project of the revolution itself and, later on, of the political regime that would only face major changes 70 years later.

Article 123 of the Mexican Constitution was a systematic compilation of dispersed legislation regulating labour relations in regions, sectors and occupations in the United States, France, Belgium and England. Because of its systematic character, it was unique in the world then, introducing a wide range of protection in a country where the potentially protected working class was a minority. The article covered working hours (8 hours per day and 7 per night); prohibition of night work for women and youth of 16 years or less; minimum working age; one day a week off; special rights for women during pregnancy and after; definition of a minimum salary based on the basic needs of a worker as head of a family; equal pay for equal work; rules protecting salaries; limits to overtime work; right to housing, schooling and for those who worked two km or more from the cities; employers responsibility for work-related accidents and diseases; measures of minimum healthy working conditions; the right of association of workers and employers; the right to strike; tripartite offices for conflict resolution; rights to compensation for unjustified firings; right to free job-exchange services; establishment of the non-renouncable character of labour rights; among other issues.

In sum, the constitutionalized protection encompassed: (i) formal standards for collective bargaining, including interest representation and conflict mediation; (ii) substantive issues related to working conditions, health standards, remuneration and many others; and (iii) the tutelary role of the State, which recognized the weaker position of workers in the capitalist economy. According to Bensusán (2000: 67), there has not been a ‘diagnostic’ of the viability of the level of protection enacted by the Art. 123. “It was, instead, a strategy devoted to modernize labour relations centred on legal protection” in a country where the vast majority of the labour force was made of rural workers and peasants (71% by 1930).<sup>3</sup>

From 1917 to 1931 the constitutional standards were decreed in a series of regulations, culminating in the Federal Law of Labour (LFT). In 1925, for instance, the right to strike was qualified. The stoppages needed to be supported by the majority of the

---

<sup>2</sup> The constitutionalization of labour codes would occur in 1934 in Brazil and in 1949 in Argentina.

<sup>3</sup> According to Tamayo (1987: 196), Bensusan (2000: 68). Bizberg (1999) makes the same point.

workers of a firm and a public authority would qualify their licit or illicit character, as well as the obedience to the majority rule. This would introduce an important mechanism of control of collective action by government officials, reproduced in the Ley Federal del Trabajo of 1931<sup>4</sup>. The LFT would be revised over the years and in 1970 a new instrument was promulgated (under the same name), and other important changes occurred in 1980. But the very structure of the regulation was never lost, the main features of which I will briefly outline.

Since the constitutional reform of 1929 the application of the labour legislation is a prerogative of local administrative authorities: the state departments of labour or the Juntas Locales de Conciliación y Arbitraje (Local Councils of Conciliation and Arbitrage), with some important exceptions: special industrial branches (metal industry, textiles, electricity, sugar, mining, petrochemicals and others); state-owned enterprises or companies operating federal concessions; and conflicts affecting two or more states, employers obligations concerning training, and the issues related to health and safety at work, these are all federal jurisdictions. Since 1960, Art. 123 of the constitution establishes two other jurisdictions, the jurisdiction 'A', covering all workers under the LFT; and the jurisdiction 'B', regulating labour relations of public servants of the Federal Government and of the Federal District under the Ley Federal de los Trabajadores al Servicio del Estado (Federal Law of Workers Serving the State – LFTSE).<sup>5</sup>

In fact, the constitution of 1917 defined the environment of the social rights as a direct consequence of the compromises arising from the Revolution, hence the tutelary character of the regulation, not directly conquered from employers through labour market conflicts (Bizberg, 1990; Cordova, 1989; De la Garza, 1990). As in Brazil during the second Vargas period (1950-54) and Argentina under Perón, the *quid pro quo* between government and labour was clear and straightforward. In exchange for legal protection, workers associations would deliver labour quiescence and political support for state policies, while State control over capital and labour associations' internal affairs would halt labour/capital conflicts (Bensusán, 1992). The main features of the Mexican regime were (and still are, in many ways), according to Bensusán (1998: 42):

- a. The universality of the protection of workers, irrespective of the heterogeneity of the economic and productive structure of the Mexican society;
- b. Special powers granted to unions in terms of exclusion clauses (only union workers could be hired and keep their jobs), rules that made it easy to create unions and to collectively bargain, the right to strike. All these items were closely connected to the strong state control over unions' activities, processes of organization and institutionalization, which reduced labour market conflicts.<sup>6</sup>
- c. State discretionary prerogatives in terms of the control of strikes and of conflict resolution based on a tripartite, albeit state-dependent, judiciary system, where political and/or economic reasoning intervened in the interpretation of the legal codes, according to the circumstances and the power imbalance within the official party, the PRI.

---

<sup>4</sup> The same instrument would be utilized by Vargas in Brazil and Perón in Argentina; the regulation of strikes has always been one of the most important instruments of control over unions.

<sup>5</sup> In 1996 the coverage of the LFTSE was extended to institutions and companies delivering services to the State, but the measure was declared unconstitutional.

<sup>6</sup> See also Bizberg (1998: 6).

- d. Although labour legislation would not consider the participation of workers' representatives in the administration of companies, their presence in tripartite instances inside the State apparatus and the judicial system was institutionalized and fostered, and would continue to grow over the years.

It is important to note that after 1929, with the institutionalization of the political party that would govern the country for more than seventy years, Mexico's political regime has made unions and peasants' organizations its main base of political legitimacy and support. In 1938 the Central de los Trabajadores Mexicanos (Central Federation of Mexican Workers – CTM) was legally incorporated in the structure of the PRI, and unions were ready to subordinate their interest to that of the Nation. As stated by the first general secretary of the CTM in 1938, the federation 'wants to create in the public life of our country a new force that will be concerned not only with the particular interests of workers, but also with the whole set of interests of the Mexican people'.<sup>7</sup> This 'republican' approach to interest representation survived the many years of social and economic changes of the Mexican society and, until 1995, many unions belonging to the Congress of Labour (Congreso del Trabajo – CT), the most important central federation in the country, had in their very statutes the obligation of their affiliates to join the PRI (Bizberg, 1998: 6).

The process of social and political incorporation of workers in Mexico implied strict control over labour actions. These few remarks, depict how the Mexican revolution consolidated a pattern of interest representation, which can be named 'heteronymous corporatism', and what De la Garza (1990) has named a 'revolution pattern' of contractual relations between capital and labour. Heteronymous corporatism denotes strong state control over unions via administrative and repressive measures, including the possibility of control of elections, deposition of leaders, ratification of strikes, de-recognition of unions and so on. It also means that only one union will represent all the workers of a particular firm and that all workers are obligated to join this union. And it means that workers would be mobilized by leaders in support for the official party of the revolution. The 'revolution pattern' of contractual relations means the regulation of mechanisms of hiring, promotion, and firing of workers; the assignment of workers to fixed jobs and tasks; of the procedures for collective bargaining and determination of salaries and fringe benefits; the mechanisms and forms of conflict resolution; working hours, night shifts, days off and vacations; as well as the attribution of privileges to union representatives.

Both patterns established formal rigidity in Mexican labour relations but there is a consensus amongst specialists that the regulations have always been flexible in practice. Bensusán (1992) has named this system 'corporatist flexibility', which would allow for the adaptation of the entire system to different social and economic environments (import substitution industrialization, the crisis of the 1980's and the new model of development based on exports)<sup>8</sup>. For De la Garza (1998), unions have restricted their action to the *circulation* moment of the organization of work, that is, the labour market, neglecting one important aspect of that organization, the *production* moment. This has opened the way for discretion from management within the firms, where workers' representatives would collaborate in non-written flexible practices as a means to assure political and even economic benefits from employers.

---

<sup>7</sup> Quoted by Bizberg (1999: 2).

<sup>8</sup> See also De la Garza (1990), De la Garza (2003), Bizberg (1998), Dombois e Pries (2000).

In sum, labour has consolidated itself in Mexico as an integral part of the political regime based on the electoral mobilization of the masses, its leaders were incorporated in the very heart of the State's bureaucracy either as representatives in tripartite bodies designed to formulate public policies of all kinds, or as political representatives via participation in the structure of the PRI. The whole system was based on a clear exchange of labour acquiescence for legal protection and social policies, resulting in the constitutionalization of labour rights. In this setting, employers also had their tripartite mechanisms, the so-called corporatist chambers to which they had the obligation to be affiliated (the chamber of commerce, the chamber of industry and the chamber of small and medium enterprises). Industrial and economic policies in the ISI period were almost always designed in close connection with employers' representatives.

In Brazil, the period of social incorporation of workers ran from 1930 to 1945, Vargas's first period in office, after the revolution of 1930. Revolution here should appear in quotes when compared to the Mexican case. In Mexico the peasants were also incorporated in the political system through an extensive agrarian reform that jeopardized the power of traditional rural oligarchies, and urban workers had their social rights established against the interests of capitalist elites. In Brazil, the revolution of 1930 did not touch either the structure of the distribution of farmland or the power of the emerging urban bourgeoisies. It has been more properly viewed as an accommodation by power elites to allow the dislocation of the agrarian oligarchy from state power without major effects over their economic and social stances (Werneck Vianna, 1999). Nonetheless, as time evolved, major changes in the economy and in the social structure of the country justified the epithet that would mark the events of that year as a revolution. This was the beginning of a turning point, both in the patterns of industrialization and of labour relations in Brazil.

Before 1930 the 'social question' used to be treated as a 'case of police', but this does not mean that labour regulation was absent from the Brazilian political debates (French, 2001). Many important issues were enacted in the first two decades of the twentieth century, especially protection for children and women and regulation of working hours. But it is undeniable that the revolutionaries of 1930 took in their hands the task of protecting the emergent proletariat of the cities through tutelary measures that resembled in many ways those of the Mexican LFT. As stated by Oliveira (2002: 50), "the regulation of work was considered important both for the political stability and for the urban-industrial development of the country (...). It wasn't enough to merely protect the workers. It was important to forge a society based on the harmony of interests of capital and labour".

French (2001) and Oliveira (2002) offer an extensive, recent analysis of the process of enactment of labour law in Brazil from 1930 to 1943, when the legislation was finally consolidated in a labour code, the Consolidation of the Labour Laws (*Consolidação das Leis do Trabalho - CLT*). The process of enactment makes the analysis interesting, since, as they point out, most of which was already accomplished in 1937, when Vargas initiated his dictatorial period. Like in Mexico, the consolidation of the labour law in Brazil occurred hand in hand with the process of construction of the nation and the consolidation of a particular kind of State, interventionist in economy and society.

Thus, in broader terms, the same guiding lines oriented the Brazilian and Mexican elites in the process of enactment of the labour law. Corporatism was the prevailing ideology. Nonetheless, Brazilian corporatism cannot be considered as strong as Mexican corporatism. In Mexico, unions had direct access to state agencies and were mobilized by the same party in government for many decades. In Brazil, corporatism has never meant union participation in decision-making. As Werneck Vianna (1999) rightly puts it,

corporatist institutions had the sole intent of control over, and repression of workers' demands, and of cooptation and corruption of union leaders not so much with the intent of mass mobilization in populist political settings (as both in Mexico and Argentina), but of blockage of the emergence of opposition to the authoritarian State ruled by Vargas from 1937 and 1945.<sup>9</sup>

The CLT, like the Mexican LFT, would regulate both the labour market and the institutions of interest representation of labour and capital. It offered populist and authoritarian regimes the tools for the control over the organizations of the urban masses and, at the same time, protected workers with minimum social policies and provisions, which would increase over time. Like in Mexico (and in Argentina years later), labour courts were created to process labour demands and workers' grievances, and as urban employment grew, workers' complaints through courts grew in tandem (Cardoso, 2003: 161).

Again, like in Mexico and in Argentina, state regulation granted unions the monopoly of representation in a given jurisdiction (the firm in Mexico, the economic sector or activity in Argentina, the municipality in Brazil), and unions were financed by a tax charged on all workers of that jurisdiction. Union affiliation was not necessary. Unions would represent all workers irrespective of affiliation. Vargas forbade strikes during the dictatorial years, and for the following decades the legislation, if applied, would have virtually made them impossible<sup>10</sup>. But it should be noted that, like in Argentina, state control over unions' actions varied intensely through history. In general terms, it can be said that authoritarian regimes (Vargas from 1937 to 1945, and the militaries from 1964 to 1981) would apply the restrictive laws, and democratic regimes would treat them as non-existent.

Another distinctive feature of State/capital/labour relations in Brazil is that labour unions would never establish strong ties with political parties until at least the 1980s. Of course, the communists would control some important unions here and there, and when Vargas returned to office in 1950, it was with the support of union leaders he helped to promote during his dictatorship. Unions were also important actors during the Jango government (1961-64).<sup>11</sup> But there has never been extensive and pervasive party mobilization of them as in Mexico and, to a much lesser extent, in Argentina in the post-Perón era.

Turning now to Argentina, Collier and Collier (1994) equate the process of incorporation of workers in the Argentine political scenario with the first period of Juan Domingo Perón in office, first as a Secretariat of Labour (appointed in 1943 after a military coup) and, from 1946 to 1955, as the elected president of the Republic. When Perón came to power, Argentina already had one of the strongest labour movements in Latin America, resulting from a process of economic development that brought to the provinces of Buenos Aires and other major cities a mass of national and foreign migrants who fostered unionism

---

<sup>9</sup> See also Levine (1998).

<sup>10</sup> Like in Mexico, to be declared legal, a strike should obey strict procedures, such as the informing of the employer 48 hours previous to the strike, the approval of the majority of the workers in the jurisdiction via secret ballots, as well as the assurance by state officials that the rules were followed.

<sup>11</sup> The strongest argument in favour of the existence of populism in Brazil can be found in Weffort (1978). This interpretation is being revised in recent years. See Santana (1998), Oliveira (2002) and French (2001). Werneck Vianna (1999, first edition from 1976) was probably the first to call attention to the flaws in the populist argument.

and workers' organizations and who would play an important role in the political dynamics of the country even before Perón. As Roxborough (1994: 307) puts it, "in the changing world of work, certain categories or groups of workers came to define themselves, or to be defined by others, as in some sense a "working class", and this cultural definition had consequences for the way they thought about the world and acted in it". At the dawn of Latin American labour, only in Chile and in Argentina we will find such a definition of class.<sup>12</sup>

The first major central federation of Argentina, the General Confederation of Labour (Confederación General del Trabajo – CGT) was founded in 1930, and in 1932 it delivered to the parliament a series of demands that would be part of the political debates from then on, including fewer working hours, severance pay, retirement insurance, and other welfare measures that, if granted, would have enhanced labour's position in the labour market and improved workers' living conditions (Bergquist, 1986: 154 and ff.). Between 1932 and 1935, the Argentine congress passed 27 new social and labour laws, among which were the 'English Saturday' (half a day's work on Saturdays), vacations, advance notification of layoffs and maternity insurance (McGuere, 1997: 47). Most regulations remained ineffective because of the lack of enforcement by public officials, but later in the 1930s the National Department of Labour was given power to mediate in collective bargaining. The repressive character of the relations between the State and workers' organizations had begun to change. Analysts agree that from 1936 on, the labour movement in Argentina was ascending. Different from the Mexican and the Brazilian cases, when the so-called 'incorporation' period began in Argentina, workers were already a strong social force, despite the major split within the CGT in 1942. The CGT split into the mostly communist unions in CGT-2, and syndicalist and socialist unions, mostly of services and transports in CGT-1. This would have important consequences for the pattern of the relationship between labour and the state, and for the strength of the labour movement in the years to follow.

When Perón came to office, labour, though strong, was a secondary force in the political arena, mostly because of the restrictions to union action and to collective bargaining. With the creation of the Labour Secretariat in 1943, Perón formalized the channels of consultation with workers' representatives, bringing them into the policy making process, and provided state assistance to unions recognized by the State. Employers were forced to negotiate with recognized unions, and faced important defeats in labour disputes. Government also began to enforce the existing legislation and to increase its scope and coverage by approving new regulations. New laws protected rural workers and tenant farmers,<sup>13</sup> expanded the regulation of the workplace, provided accident insurance, extended paid holidays and, most importantly, restricted the dismissals of workers. Perón also created labour courts to process workers' grievances and established a minimum wage. A new Law of Professional Associations was passed in 1945 that ended many anti-labour provisions enacted during the first months of the military government

---

<sup>12</sup> The 1914 census counted 383,000 industrial workers in Argentina. In 1935, there were more than half a million, climbing to more than a million in 1946. And in 1939, 60% of industrial firms, 70% of industrial workers and 75% of industrial wages were concentrated in Buenos Aires. See Rock (1991: p 25-6).

<sup>13</sup> Something that never occurred in Brazil, for instance, and which was at the very base of the Mexican revolution.

that hosted Perón.<sup>14</sup> This was to be classified as the ‘golden age’ of the relations between labour and the State in Argentina (Halperín, 1983: 105).

This was also the era of the creation of the mechanisms that would legitimize State control over unions. The Law of Professional Associations allowed the State to recognize or not recognize unions, granting them the right to strike and the power to collectively bargain. A centralized union structure was established, and union finances were improved through automatic payroll deductions of union dues. At the same time, communists, leftists, syndicalists and independent leaders were excluded from unions in important economic sectors such as meatpacking, footwear, textiles, and metallurgy. By 1946 these political tendencies had virtually disappeared from the Argentine labour movement (Bergquist, 1986: 161). The CGT was now under the uncontested leadership of the Peronists.

As Collier and Collier put it (1994: 338), the changes introduced by Perón had two immediate effects: (i) strengthening the internal cohesion of the labour movement, while reducing its autonomy; and (ii) granting the labour movement social and political recognition unknown in Argentina until then. After his election to the presidency in 1946, the pattern of control and recognition was deepened. The right to strike was limited and interventions in recalcitrant unions increased. The CGT, which was under the complete control of Perón in 1950, was used to take over non-Peronist unions, and by 1954 virtually all of Argentina’s largest unions had suffered intervention and had their leadership removed. At the same time, as a counterpart to the control over unions, in 1947 the ‘Rights of the Worker’ were enacted, and they were included in the 1949 constitution. By 1948 more than 1.5 million workers were unionized and in some sectors the density rate was as high as 70% (Torre and De Riz, 1991: 82).

After his re-election in 1951, Perón strengthened the corporatist façade of the regime, and in 1952 he created the General Economic Confederation (Confederación General Económica - CGE) incorporating employers in tripartite committees for policy making. But the arrangement would not survive his withdrawal from office in 1955.

Unlike the Mexican revolutionaries and, in part, Vargas in Brazil, Peron did not institutionalize Peronism as a party. His support was always the labour movement; the military of 1955 as well as other political force afterwards were never able to rid the CGT of its Peronist character. The CGT was also in the supporting alliance that permitted the election of Menem in 1989.

These main lines of the IRS in Argentina would not suffer major changes until the beginning of the 1990s, despite the harsh anti-labour actions of the military regime in the 1970s. The Mexican model would begin to change only in the 2000s. In Brazil, the constitution of 1988 would introduce some changes in the union structure, freeing them from State control, and would also considerably expand the constitutionalization of the labour rights, making it harder to change the regulations of labour relations. From the previous discussion, it must be clear that only in Mexico did the IRS consolidate stable, tripartite institutions to accommodate labour/capital conflicts, but with the clear intent of control over labour unions and leaders. Compared to Mexico, corporatism was never as strong in Argentina or Brazil, notwithstanding the measures taken during Perón’s first term and the strong stake of Peronism in Argentine politics in the 1960s.

---

<sup>14</sup> The military abolished the leftist CGT-2, prohibited union participation in politics and restricted other union activities, especially strikes. See McGuire (1997: 51-2)



All three countries consolidated their IRS in tandem with the process of economic development based on state-led, import-substitution industrialization. Peron, Vargas and the Mexican incumbents strengthened and controlled labour at the same moment as they expanded the state bureaucracies, subsidized industries and agriculture, created state enterprises in strategic branches, controlled foreign investments and closed the internal markets to foreign competition. State bureaucracies were, by far, the strongest agents in these settings. ‘Developmentalism’ as a *raison d’état* meant precisely this: economic growth with social peace, and social peace was possible through more or less authoritarian, more or less inclusive control of labour demands, depending on the country.

### ***Union Responses to Economic Restructuring***

The economic restructuring of the 1990s in Argentina and Brazil, and which goes back to the 1980s in Mexico, has changed the face of unionism, collective bargaining and social dialogue in all three countries. The major trends are similar, but differences, again, cannot be overstated. In Brazil and Argentina, restructuring meant de-industrialization (the so called ‘competitive shock’ which internationalized capital ownership in the two countries and reduced the share of manufacturing in both the GDP and employment creation), privatization of public enterprises and services (also internationalized), growth in the informal sector and in unemployment rates, increase in economic and social inequalities and also poverty. It also led to an important increase in capital and labour productivity, but not sufficient enough to stimulate exports, due to the currency over-valuation. In Mexico, instead of de-industrialization, there has been a shift of the manufacturing fabric from the centre to the north of the country, and a growth in the employment rate in this particular branch. But unemployment rates also grew and the informal sector harbours the majority of the labour force in many important regions, such as the Mexico City Metropolitan Area. Poverty is also pervasive in the south of the country as well as in the big cities. Productivity grew, and unlike Brazil and Argentina, the Mexican economy is heavily dependent on exports, mostly to the US.

Though restructuring has been different in each country, the rationale which oriented it has basically been the same. With the risk of simplification, it can be said that the entire program has been based on the introduction of market mechanisms to the previously State, inward-oriented industrialization process. Instead of the protection of internal markets, economic frontiers were opened to foreign competition. Instead of State intervention and investments, privatization of public services and industries. Instead of universal labour protection, deregulation and flexibilization of the labour codes, along with the flexibilization of the financial and capital markets<sup>15</sup>.

The policies arising from the Washington Consensus would result in crisis: Mexico in 1994, in Brazil in 1999 and in Argentina in 2001, though the fall has not been steady and linear. Argentina experienced conomic growth until nearly the end of the nineties, despite growth and wealth not going together during the entire period. Macroeconomic policies resulted in a concentration of income and increased inequality. In Mexico unemployment rates grew until the mid-1990s, falling steadily since. In Brazil, poverty fell sharply at the outset of the plan of economic adjustment, but since 1998 it started to grow again as workers’ real income fell and unemployment rates catapulted. Analysts’ evaluation of the restructuring model adopted in Latin America depicts a situation deeply damaging to the

---

<sup>15</sup> The literature on the content of the ‘Washington Consensus’ abounds. See, for instance, Dupas (2001) and Stiglitz (2002).

social fabric and for the living conditions in the region,<sup>16</sup> not to mention the drawbacks in social and economic rights. But the opposition from labour did not have the same intensity or shape, as the restructuring process. Labour had to deal with different social and political forces in each country.

In Argentina, Carlos Menem could pass the labour reforms of March 1991 without important resistance from the labour movement. The reasons for this are quite consensual in the literature.<sup>17</sup> First of all, the CGT was divided in two main factions in the beginning of the nineties, but both of them were Peronists, with the predominant group pro-Menem. The political affiliation of most union leaders restricted their willingness to act against public policies, most of which were supported by the majority of Argentines. In 1991, a survey of a representative sample of the population of the country found that 68% supported the privatization of public enterprises, 77% favoured a more open economy and 82% favoured the reduction of public spending. Workers under the CGT also favoured the same policies, as Peter Ranis found through in-depth interviews in the mid-eighties (Ranis, 1997: 390 and ff.). A third important reason was that Menem tamed the hyperinflation process that had impoverished workers in the 1980s and disorganized Argentina's society and economy. As stated by Nelson (1992: 13), 'in Bolivia and Argentina... hyperinflation proved a watershed: the public, terrified, acquiesced in far more draconian reforms under second-round presidents'.<sup>18</sup> The convertibility plan stabilized the currency, distributed income and reduced poverty, at least during the first years of the Menem administration. It also fostered economic growth. It was obviously a better choice, no matter the costs. As stated by Peter Ranis (1997: 392), the beginning of the nineties "has been a period of vigilant hope". Or, as stated by Palermo (1994: 325), popular support for Menemism is "motivated not by the captivating conviction of a more prosperous future but by the necessity to flee from the intolerable present or the fear of return to a situation whose extreme harshness had already been experienced". A fourth reason was that many important CGT leaders saw in the privatization process the opportunity to spread CGT's leadership in constituencies normally averse to its officialism, like the metal workers unions of the public enterprises (Murillo, 2001). Murillo also notes that many unionists had quite an entrepreneurial approach to privatization, for example, the Menem administration sold workers shares in stocks at subsidized prices. Consequently during Alfonsín's administration, the CGT coordinated 13 general strikes, while during Menem's first term there was only one (frustrated) attempt (Munck, 1997: 15). With the support of unions and the nation, Menem could approve whatever he wanted.

In Brazil, on the contrary, the main central federation, the Unique Workers' Central Federation (Central Única dos Trabalhadores – CUT) opposed Cardoso's economic plan. But, along the process, unions would face important political and institutional drawbacks. Apart from the impact of the economic changes on the configuration of the working class, the deepening of social and economic insecurity and high unemployment rates, the picture was worsened by another challenge to unions: the direct, decisive attack from Cardoso's

---

<sup>16</sup> Stiglitz (2002) is probably the most surprising statement of the kind, considering he directed the World Bank and was one of the responsible managers of the Washington Consensus that dictated the economic restructuring plans for Argentina, Brazil, Colombia, Mexico, Uruguay, Colombia and many others.

<sup>17</sup> In the following, I refer to McGuire (1997), Ranis (1997), Geddes (1994), and Nelson (1992).

<sup>18</sup> See also Haggard and Kaufman (1992: 31). Weyland (1998) expands the argument to include Brazil, Peru, Mexico and Venezuela, saying that draconian policies are only supported because they promise to revert a deep crisis and restrict or end further losses.

government against the CUT and the left as a whole. Perhaps the most significant moment in that conflict was the confrontation with petroleum workers in 1995. The Brazilian state-owned petroleum company, Petrobras (which is still state-owned), refused to honour a collective agreement according to which the company should restore real wages based on past inflation. In its fight against the general indexing of the economy,<sup>19</sup> the government took petroleum workers' demands as the lighthouse from where it would signal to all other workers that it would not 'tolerate' this kind of indexing anymore. After weeks of frustrating negotiations, a thirty-day strike took place. Following violent confrontations with the army (which occupied many Petrobras' refineries), petroleum unions headed by the CUT were bluntly beaten, failing to obtain their demands and having 59 of their union leaders dismissed countrywide.

This was a huge defeat for the CUT. Petroleum leaders were among the 'founding fathers' of this central federation and the first to organize a national 'department' within its structure, negotiating national collective agreements with Petrobras that, in CUT's strategy, should serve as an example to workers in other economic branches. Cardoso's government was aware of that and conscientiously acted to weaken their power. One of the side effects of the battle was a turn of public opinion against the strikers, and in favour of the president: 60 per cent of São Paulo State's population disapproved of the strike. Another 55 per cent found it unjustified, and 53 per cent thought that it was inspired by political motives against president Cardoso, and not by wage demands.<sup>20</sup>

Along more or less the same tracks, from 1995 to the end of Cardoso's term, the left wing and other nationalist forces, i.e. the CUT, the workers' party (PT), communist parties, central union federations like the two CGTs, and other smaller, dissident federations created during the 1990s, all hopelessly tried to block Cardoso's neoliberal programs, the most important of which being the privatization of state-owned enterprises. After some violent protests in 1996 and 1997, left wing movements, to put it in a way tasteful to Lula, 'lost the ideological battle' on this specific issue. Cardoso privatized everything he wanted, the way he wanted.

What is striking about this evolution is that, unlike Argentina, this goal was achieved against public opinion. In fact, in 1990, only 30 per cent of Brazilians were in favour of privatization, while 30 per cent were against it and 36 per cent had no clear opinion.<sup>21</sup> By 1998, the rate of rejection had grown to 52 per cent, with only 34 per cent supporting the selling of public enterprises.<sup>22</sup> In April 2000, citizens were asked to evaluate privatized companies. According to the newspaper that released the results, the government found 'astonishing' the proportion of those who declared themselves against privatization.<sup>23</sup> Finally, in November 2000 the same Data-Folha Institute found that 65 per

---

<sup>19</sup> Indexing had characterized the Brazilian economy since the 1960s. All prices were aligned to the variation of inflation (including bank accounts), so that all economic agents could presumably catch up with past losses. This was not true for low wage earners, because they could not afford bank accounts and because official wage policies always restrained minimum wages. See Singer (1988).

<sup>20</sup> Datafolha poll of a sample (1,079 interviews) of São Paulo State's population over 14 years of age, held on May 23, 1995, archived at CESOP/UNICAM.

<sup>21</sup> IBOPE poll of a representative sample of Brazilian voters (3,643 interviews) in August 1990, also archived at CESOP/UNICAM

<sup>22</sup> Datafolha poll of a representative sample (4,380) of the Brazilian adult population (18 years or more), July 1998. Archived at CESOP/UNICAM

<sup>23</sup> See newspaper *Jornal do Brasil*, 23/04/2000. The results of the poll, sponsored by Cardoso's government, were not made public.

cent of the voters in the São Paulo State were against ‘privatization in general’.<sup>24</sup> All that notwithstanding, opposition forces were not able to channel the public’s sentiment, in order to stop the selling of former bastions of the Brazilian labour movement. This was a heavy blow to the leftist strategy of confrontation based on nationalist reasoning. As previously stated, CUT unions dominated most former public enterprises, and in many cases privatization meant loss of offices for competing federations. And like in Argentina, competing union leaders benefited from subsidized sales of stocks, convincing workers that privatization was in their personal interest.

As we will see below, in Brazil the changes in the labour legislation were not so deep as in Argentina, and would only take place in the second half of the 1990s. The legislation did not have to change much for the flexibility measures to be implemented in day-to-day practices by employers. As Barros and Mendonça (1996) and Barros et al (1997) have already pointed out very persuasively, the Brazilian labour market is amongst the most flexible ones in the world in response to economic shocks, both in terms of re-allocation of the labour force and in terms of wage flexibility. This explains why the pressures for change in this particular issue have never been so strong either within the government agencies or by employers associations. Nonetheless, the National Confederation of Industry (Confederação Nacional da Indústria – CNI), the National Confederation of Transport (Confederação Nacional dos Transportes – CNT) and the Brazilian Federation of Banks (Federação Brasileira dos Bancos – Febraban) all had projects submitted to the National Congress through representatives supported by these class associations, trying to change issues like the fine of 40% of the Guarantee Fund for Employment Duration (FGTS)<sup>25</sup> which is said to introduce rigidities in the labour market,<sup>26</sup> or the regulation of working hours.<sup>27</sup> But the project which was finally passed in Congress referred to the so called ‘bank of hours’, a flexibility measure which permits the adjustment of the working day in accordance with market shifts along the year. In one year, the mean weekly working hours cannot exceed the constitutional 44 hours. But night shifts or banks’ working hours were never changed. The ‘bank of hours’, it should be noted, is a way of avoiding overtime pay when the economy is doing well and, also, dismissals when it slows down. It does not create jobs, but reduces job destruction during short periods of crisis.

In Mexico, because of the officialist façade of labour and capital unions entangled in the state apparatus, economic reforms would only suffer some opposition from traditional social dialogue partners after the crisis of 1994. Presidents De La Madrid, Salinas or Zedillo did what they thought necessary to push forward economic restructuring, including the inclusion of Mexico in NAFTA. The process of restructuring represented the destruction of the painfully constructed affinity between a protectionist regulation of the labour market, a model of industrialization centred in the internal market and an authoritarian, corporatist political system (Bensusán, 2000: 386; Bizberg, 1999, passim). Although the labour code has not yet been changed, nor has the role of the labour courts or the role of the Ministry of Labour in the regulation of unionism, the economic restructuring

---

<sup>24</sup> Newspaper *Folha de S. Paulo*, 13/11/2000, B-1.

<sup>25</sup> The FGTS corresponds to 8% of the monthly net wage of each formal worker, compulsorily collected by employers to a personal bank account of workers, but only accessible if they are dismissed without just cause.

<sup>26</sup> For instance, as argued by Amadeo and Camargo (1996) among many other economists. I criticize the argument in Cardoso (1999: ca 5).

<sup>27</sup> Night shifts cannot exceed 6 hours and the bank workers’ working day is also 6 hours.

was nevertheless deep and extensive. Soederberg (2001) called it a 'passive revolution', because of its unilateral state design and because of the formal negotiation with social partners as part of the process of social and political legitimization.

As was previously stated, the traditional Mexican class compromise included the recognition by the State that workers were the weaker part in labour relations, hence the multidimensional legislation of protection and, also, its enforcement by State officials and union leaders. Without changes in the formal apparatus of protection, though, under the new economic and political environment, this very apparatus has contributed to change the bargaining power against workers, excluding them from the benefits of economic development. On the one hand, the State lost its ability to autonomously design economic policies, forced by the debt crisis to rely on fiscal austerity and other liberal measures. On the other hand, labour could not halt the process of impoverishment of their constituency, but instead complied with the policies that jeopardized their social power in order to maintain control over the union structure.

Following Bensusán (2000: 388 and ff.), one can identify at least three phases in the process of restructuring in Mexico. First, from 1982 to 1987, the goals of the economic policy were set by the IMF, with strong currency devaluation in 1982, de-incorporation of almost seventy percent of the state-owned enterprises, adherence to the GATT, elimination of administered imports prices, fiscal discipline and other measures. Trade opening was unleashed. The second phase (1988-1993) was marked by the deregulation of the financial system, more trade opening, intensification of the privatizations (including banks, telecommunications, transports and other strategic sectors), all of which helped to pave the way for the negotiations for NAFTA. The main instruments of economic policy making were the economic pacts joining the State, labour and capital to control inflation at the cost of wage reductions (this will be developed further later). Employers were convinced to support the austere macroeconomic policies in exchange for the acceleration of the structural changes and for the control of wages. Trade opening forced the industrial restructuring of the country, which resulted, different from Brazil and Argentina, in the redirection of the production towards exports, mainly to the US.

The third phase (1994 to 2000) was characterized by the effort to consolidate the export-oriented economic model and the institutionalization of NAFTA, in 1994. As in Argentina and Brazil the search for foreign direct investment resulted in the consolidation of a group of large, modern, transnational companies in highly competitive sectors (De La Garza, 1998), at the expense of medium and small companies, which were an important part of the previous model of economic development, based on the internally, protected market. The brownfield industries of the centre of the country suffered huge losses, with employment migrating to the northern border where the 'maquiladoras' were growing fast.

Bensusán (1993 and 2000) shows very convincingly that although the labour movement was represented in every round table, negotiating the Pact of Economic Solidarity (Pacto de Solidariedad Económica – PSE) in 1987, NAFTA in the 1990s, and other tripartite agreements concerning Mexican restructuring, their influence was always marginal. President Salinas declared, in 1988, that the PSE resulted from close negotiations between the State and the 300 most important capitalists of the country, some of which made the privatization of the most important state-owned enterprises a condition to participate. During the NAFTA process, while more than 500 employers were represented in the working groups, only six union leaders took part in the negotiations. In spite of this, social resistance or protests against the economic policies would only appear in the mid-1990s.

In the three countries, then, the depth and scope of the restructuring were remarkable. The very structure of the distribution of capital changed dramatically, and in the same direction: basic urban services, manufacturing, retailing and trade shifted hands, moving from national to international capital in a quite short span of time. In Brazil, for instance, the composition of capital in the auto-parts industry changed from a ratio of 52 percent of national capital in 1994 against 48 percent of international, to 78.4 percent of foreign capital in 2002.<sup>28</sup> In all three countries financial systems, manufacturing fabric and basic services have all been reconfigured. The labour market also faced deep changes, with employment migrating from structured to informal sectors, from manufacturing to services and also to unemployment. Considering the depth of the changes, one would expect major resistance from the main social actors. But this did not happen, at least not until the demise of the adjustment plans. The sections that follow will consider the impact of the changes on labour relations and social dialogue, and on the employment problem in all three countries.

### ***Union Structure***

Union structures in the three countries bear the weight of the past administrative and political control of state officials and political parties. Despite the democratization process in Brazil and Argentina in the 1980s and, more recently, in Mexico, unions still have to cope with the inheritance of more or less heteronymous relations with the state, whose influence extended from internal organization to funding, from legitimacy to potential for collective action.

In Mexico the legacy of corporatism is a dual and pyramidal structure (Bensusán and Alcalde, 2000: 164). Within the union structure are the institutions affiliated with the peak official organization, the Labour Congress (Congreso del Trabajo - CT), as well as independent unions. The summit of the official pyramid is the CT itself and the leaders of the central federations affiliated to it. At the base are the myriad of unions of various kinds, size and scope: unions of professionals, company unions, unions of industry and national industry unions. The CT is still the prevailing organization, not only for its large membership, but mainly for its special relationship with the state and its institutional resources. For instance, the unions affiliated to it still have precedence in collective bargaining and are favoured by the exclusivity clauses. They hold seats in the tripartite boards that administer labour and the labour courts, a situation still prevailing after the democratization at the beginning of the 2000s.

The CT was created in the mid-1960s and organizes unions of both the private and public sectors in local and federal jurisdictions. It was the main interlocutor for labour during the periods of economic growth in issues such as wages, social insurance and subsidies (De la Garza and Herrera, 1995). Among its affiliates are the national confederations, autonomous federations and company, industry and national industry unions as well. In 1978, 84% of all union members were represented by the CT, or 74% of private sector's affiliated workers and 99.8% of the public sector's. (Zazueta and De la Peña, 1984: 64-7). In recent years some important unions have left the CT structure (like STRM, the Union of Telephone Workers of the Mexican Republic), reducing its representation in the private sector to 67%, though still very high. The affiliation of public sector workers remains intact (Bensusán and Alcalde, 2000: 167).

As we will see when discussing the scope and strength of collective bargaining in Mexico, the concentration of power in the CT reduces the autonomy of local unions in

---

<sup>28</sup> Data in <http://www.sindipecas.org.br/documentos/Desempenho2003pg22.pdf>.

terms of their capacity to negotiate issues related to the day to day use of labour power in local firms, especially those resulting from the pressures to introduce flexible labour relations. Unions in Mexico (and in Brazil as well) act in the sphere of circulation (the labour market), not of production (De la Garza, 1990), mostly because of this pattern of concentration of power in the CT and its affiliated federations (like the Revolutionary Confederation of Peasant Workers – CROC, the Regional Confederation of Mexican Workers – CROM, and the Confederation of Mexican Workers – CTM, the most important one). In spite of this, there does not exist explicit mechanisms for the coordination of local unions’ actions, and capital/labour relations are disperse and atomized (Zazueta y De la Peña, 1984; Bensusán, 2000). Table 1 below shows the figures of the affiliation to the central federations under the CT.

**Table 1**  
**Unions affiliated to the main Mexican central federations within the CT– 1999**

Federations	Associations affiliated	# of workers
CTM	353	476,751
CROC	193	90,974
CROM	150	32,302
Other federations	747	615,303
National Unions	248	253,502
Gremial Unions	185	89,865

Source: Bensusán and Alcalde (2000:168)

Apart from the CT, the dual structure of the union market includes other important independent unions, and until very recently their actions were also dispersed and uncoordinated. Among the independent unions, there are those without a clear ideology and also unions that have opposed (sometimes very intensely) the governments of the PRI. Many other unions not affiliated to the CT are what the Mexicans call ‘white unions’, or unions subordinated to the policies of the companies. These unions have increased in many new firms located in Mexico’s northern border.

Since 1997, the most important independent union joined dissidents from the CT to form the National Union of Workers (Unión Nacional de Trabajadores – UNT), now representing 1.5 million workers (Vadi, 2001: 139). Within the UNT, the Authentic Workers’ Front (Frente Auténtico de Trabajadores – FAT) represents manufacturing workers in half the Mexican provinces, and is particularly active among the maquiladora workers, with explicit collaboration of US trade unions. The UNT also brings together unions from the service sectors and public servants.

According to some analysts, the state monopoly of unionism is in the process of disintegration (De la Garza, 2003; Roman and Arregui, 2001). The three major currents in battle for the shape of the future of the Mexican labour movement are the CT (and inside it, the CTM), the UNT and the First of May Inter-union Coordination (Coordinadora Intersindical Primero de Mayo – CIPM). For Roman and Arregui (2001: 63), both the CT and UNT are institutional formations controlled by officialist labour bureaucracies trying to adapt to a disintegrating system, and cooperate with the state and/or capital “to contain working-class militancy”. They would not be vehicles for the struggle for union or political democracy. Nuñez (2003) agrees that it is a kind of ‘neo-corporatism’ and not a ‘new unionism’. For Bensusán and Alcalde (2000: 174), the UNT will effectively dispute the hegemony with the traditional unionism if the political divergences among the currents that

it harbours are resolved in favour of actions devoted to the independent organization of workers.

Founded in 1995, the CIPM was the result of a movement to organize the May Day March in 1995, when the official unions decided not to organize it for fear of losing control over the workers. Its origin, then, is the coordination of dissident unions, community organizations and various leftist organizations, and despite the strong heterogeneity of the forces within it,<sup>29</sup> the CIPM advocated democratic control over existing unions, union democracy, extension of unionism to non-unionized sectors (like the informal labour market and small and medium firms), and with the support from the Zapatistas, the democratic transformation of Mexico. It was more properly a social movement, and in 1997, 85% of the delegates to its first convention refused to affiliate to the UNT. The CIPM, however, disintegrated in the beginning of the 2000s, and dissidents are now reduced to the Mexican Union Front (Frente Sindical Mexicano), headed by the Union of Workers in Electricity which, according to De La Garza (2003: 366), has long lost capacity for collective action.

The Brazilian ‘soft’ corporatism has also created a structure which is officially pyramidal, but in practice local unions concentrate the collective bargaining power. The law permits only one union per economic sector or occupation in a given jurisdiction, which must be at least the municipality. This union has the monopoly of representation of the workers of a given sector or occupation. This is called union ‘unicity’ (unicidade sindical), and the workers are forcibly represented by the unions, whether affiliated or not. Union dues are deducted directly from pay-checks and are equivalent to one workday per year.

Although this may sound like a restriction of competition within the union market, in fact the whole system is highly fragmented and competitive. There cannot exist two unions of metalworkers in the same city, with this broad denomination, but there can be unions of drillers, of spinning-drillers, of hammerers, of car-assemblers. The same with textile workers and every other manufacturing activity which can be segmented by a particular skill. The worker may choose which union will represent her: either the sector union or the union representing her occupational category. As a consequence, despite the myths of the ‘unicity’ and of the lack of competitiveness, in 2001 the federal bureau of statistics (Instituto Brasileiro de Geografia e Estatística – IBGE) found almost 16 thousand unions in the country (including those of workers and employers), a growth of 43% compared to 1991. Table 2 shows the figures.

---

<sup>29</sup> Among which is the Zapatista Front of National Liberation (Frente Zapatista de Liberación Nacional – FZLN).



**Table 2**  
**Number of unions in Brazil: 1991 and 2001**

Kind of Union	1991	2001		
		N	Registered (%)	Not registered (%)
<b>Urban</b>	<b>6,695</b>	<b>10,258</b>	<b>72.01</b>	<b>27.99</b>
Employers	1,751	2,767	78.39	21.61
Employees	3,838	6,101	70.22	29.78
Self Employed	727	927	64.51	35.49
Professionals	379	463	72.57	27.43
<b>Rural</b>	<b>4,498</b>	<b>5,705</b>	<b>69.33</b>	<b>30.67</b>
Employers	1,522	1,782	79.41	20.59
Employees	2,976	3,923	64.75	35.25
<b>Total</b>	<b>11,193</b>	<b>15,963</b>	<b>71.05</b>	<b>28.95</b>

Source: IBGE (2002).

As mentioned, the constitution of 1988 freed unions from state control. Nonetheless, because they are still entitled to tax the workers they represent – a relic of the Vargas era which the new constitution maintained intact – the Ministry of Labour still has to say which union will represent which workers in a given jurisdiction. Therefore, unions still have to seek some kind of official registration. More than 70% of them are officially recognized. The remaining 30% are seeking recognition in order to have access to official union fees and to bargain collectively.

Officially, the structure is officially pyramidal. There are unions in a municipality, federations of at least two unions of the same economic branch or occupation in different municipalities, and confederations of at least two federations in different provinces. Formally, federations and confederations can perform collective bargaining when, for instance, the employers involved have various plants in different municipalities or states. But in practice the collective bargaining process is headed by local unions, with important exceptions. In fact, since its creation in 1983, the Central Única dos Trabalhadores (Unique Workers' Central – CUT) has been trying to consolidate a parallel structure of federations (first outlawed by the CLT and later permitted by the constitution of 1988), through which the CUT would negotiate national or multi-province collective agreements in specific workers' categories. Bank workers, for instance, have national employers. Petroleum workers have one single employer in the country, Petrobras. And metalworkers (mostly those of the auto industry) sometimes have the same employer in many municipalities and provinces. The CUT has managed to strengthen these three federations in the 1990's, and they coordinate the collective bargaining processes of local unions. They are also entitled to formally endorse the agreements, something that the CLT does not contemplate but which the federations have managed to include in collective agreements.

Collective bargaining can take place at the level of the whole category of a municipality (and sometimes of more than one municipality or province) or at the firm level. The first type of bargaining results in collective conventions, celebrated between workers' and employers' unions. The second results in collective agreements between workers' unions and a particular firm or groups of firms with the same employer. In 2001, according to IBGE (2002), 72% of the 6,000 salaried workers' unions had collectively bargained in 2001. This is basically the same figure of 1991 (Cardoso, 1999: 57).

Brazil has two major central federations, CUT and Força Sindical (Union Force - FS). As can be seen in Table 3, CUT is by far the largest, with almost 3,000 affiliated

unions in 2001, representing 66% of the total of affiliates and one fifth of the union market. Amongst urban salaried workers, 56% of the unions that chose a central federation joined the CUT. Besides, the CUT mirrors the actual distribution of the existing unions by economic sectors. According to the same source of Table 3 unions in manufacturing represented 16% of all unions in 2001. Within the CUT's structure, they were 15.7%. This also happens in the financial sector, in education and in transport. The CUT over-represents rural unions, 34% in the global market and 44% within the central federation. The FS, on the other hand, over-represents manufacturing unions, which amounts to 46% of its affiliates. The FS has only 11% of its unions in agriculture.

**Table 3**  
**Central Union Federations in Brazil: 2001**

Central Federations	Unions Affiliated	% over (A)	% over (B)
CAT (1)	86	2.00	0.76
CGT (2)	239	5.55	2.10
CUT (3)	2,838	65.95	25.00
FS (4)	835	19.41	7.35
SDS (5)	287	6.67	2.53
Other	18	0.42	0.16
Total (A)	4,303	100.00	62.10
Total (B)	11,354		100.00

(1) Autonomous Central of the Workers

(2) General Central of the Workers

(3) Unique Central of the Workers

(4) Union Force

(5) Social Democratic Union

Source: IBGE (2002)

Central federations were, during the 1980's, more properly social movements in Brazil, because they could not bargain collectively. They would coordinate local unions' actions, raise funds for union elections, participate in the public sphere and foster political and ideological discourses, but they could not bargain. Formally they still cannot. But, as already stated, the CUT has agreed on many occasions with employers to lead and endorse collective agreements on behalf of its affiliated unions. Besides, almost all of the CUT's new unions – in 1991 it had 1,700, affiliates, and 2,800 in 2001 – are not yet registered in the Ministry of Labour. Nonetheless, most of them bargain collectively, forcing employers and competitors to recognize them as representatives of the workers they claim to represent.

It is important to say that, unlike Argentina, the authoritarian regime of the period 1964-1985 did not outlaw unions' or political parties' activities. The union structure remained intact, despite the harsh persecution, incarceration, assassination and banishment of leftist, radical or non-cooperative union leaders. Unions were again used as a device to control the labour movement and as an obstacle to the emergence of social protest. After 1966 the regime implemented annual wage policies and forbade unions from bargaining on this particular issue. Unions' bureaucracies of social and health services increased as a substitute for collective bargaining, and the number of unions continued to grow during the military regime. As a consequence, when social unrest re-ignited in the late 1970s, the union structure was there to serve as a powerful tool for the social organization of workers. This explains why the labour movement grew so rapidly in the 1980s, creating a political party in 1980 (the Workers Party – PT) and two central federations in 1983 (the CUT and a

competing faction that, after many changes, would become the FS in 1991), ending up with 10,000 unions in 1989 (Cardoso, 1999).

In Argentina, the military government of 1966-73 left the CGT intact while halting party and electoral activity. When Peron was again elected in 1973, Peronism was alive and completely dominated Argentina's labour movement (McGuire, 1990: 3; Ranis, 1997: 103-105). After Perón's death in 1974, the CGT showed its power organizing the first major general strike in 1975 against the government of Perón's wife, Isabelita, which was trying to implement an economic policy restricting wages. But the new military government of 1976, on the contrary, abolished the CGT and began a campaign of repression unprecedented in modern Argentine history. Not only leftist unionists but also right-of-centre CGT members were caught in the crackdown. In spite of the repression, some important leaders survived the dictatorship, and when democracy resumed in 1983, Peronism was again the synonym of organized labour. In 1989 all of the members of the directing board of the CGT but one belonged to one of the many factions of Peronism (McGuire, 1990).

The Law of Professional Associations of 1945 has been altered many times, but its main dispositions still hold. The right of association is free. Unions have the right to represent workers and to collectively bargain. According to the juridical nature, there can be unions with or without 'personeria gremial' which grants automatic quotas and the right to collective bargain. According to the level of organization, there can be unions, federations and confederations or centrals, and as to the economic scope, they can be of company, economic sector, economic activity or professions. Activity or sector unions prevail. Workers' representatives are protected by law. They cannot be dismissed and employers must pay their salaries even if they are totally dedicated to union activities. Under the Alfonsín government (1983-89), the CGT recovered most of the formal powers it had lost during the military regimes of the 1960s and 70s. The most important of these was probably the right to administer its own social security program, which mobilized more than US\$1,7 billion in the 1980s (Ranis, 1997: 134).

Like in Brazil and Mexico, in Argentina the state can grant unions the 'personeria gremial', or official recognition which allows unions to automatically collect union dues from paychecks, passed on to them by the employers; to automatically collect from all registered workers (weather or not affiliated), on a monthly basis, quotas for the social services they deliver; and to represent workers in collective bargaining and to collect quotas based on the results of the bargaining, from all the personnel, regardless of whether or not they are affiliated.

In the beginning of the 1990s, the CGT had around 1,400 unions affiliated to it, of which 75 were organized as national federations. Two thirds of these (50 federations) covered, and still cover the provinces. But the majority of the unions are small. Almost half of them have less than 1,000 members, and only one in seven extends its jurisdiction beyond one province, department, district or city. Analysts estimate that 58 of the bigger federations and unions represent two thirds of the total working class (Ranis, 1997: 144). This has not changed significantly with economic restructuring, and in the three countries the structure of the labour movement has proved to be very resistant to change.

### ***Union Density***

Despite the permanence of the formal union structure, changes in the economic environment have had major effects over the power of unions in the three countries. In fact, most labour movements in Latin America lost economic resources, affiliates, political

power and broader social influence, leaving the centre of the social movements' stage, occupied in many countries by new social actors. Union density is probably the most powerful evidence of this trend, despite the fact that this kind of data is sometimes hard to analyze. Sources and reliability vary from country to country and comparability is never straightforward. Fortunately, in the three countries analyzed, union density has been calculated from a presumably comparable source, national household surveys asking workers directly whether they are, or are not, affiliated to unions. Table 4 shows the figures.

In the three countries, the different time span covered notwithstanding, the trend is too strong to be denied. In Argentina, union density fell from more than 60% in 1975, at the doors of the military coup of 1976, to 36% in 1985 and to 24% in 2002, a loss of more than 60% in the affiliation rate of the economic active population. In Mexico the fall has also been quite spectacular if we consider the shorter time frame: more than 30% of density lost in less than ten years. In Brazil, on the contrary, the figures are fairly stable.

**Table 4**  
**Union Density in Argentina, Mexico and Brazil**

<b>Argentina</b>							
	<b>EAP (a)</b>	<b>EAP occu (b)</b>	<b>Wage earners (c)</b>	<b>Union members (d)</b>	<b>(d)/(a)</b>	<b>(d)/(b)</b>	<b>(d)/(c)</b>
1975	8,500,000	8,245,000	6,000,000	5,000,000	58.8	60.6	83.3
1985	11,000,000	10,340,000	7,500,000	4,000,000	36.3	38.7	53.3
1998	14,000,000	12,040,000	8,200,000	3,600,000	25.7	29.9	43.9
2002	15,840,000	13,340,000	8,804,000	3,850,000	24.3	28.9	43.7

Source: Palomino and Senen (2003)

<b>México</b>							
	<b>EAP (a)</b>	<b>UPM (b)*</b>	<b>Union members in UPM (c)</b>	<b>Total Union Members (d)</b>	<b>(d)/(a)</b>	<b>(c)/(b)</b>	
1992	30,200,000	6,500,000	1,400,000	4,100,000	13.6	22.1	
1994	35,000,000	6,800,000	1,000,000	3,600,000	10.4	14.9	
1998	40,100,000	7,400,000	1,100,000	3,700,000	9.3	15.5	
2000	41,000,000	8,000,000	1,200,000	4,000,000	9.8	15.0	

\* Unionizable population of manufacturing

Source: Adapted from Herrera and Melgoza (2003: 326)

<b>Brasil</b>							
	<b>EAP (a)</b>	<b>EAP occup (b)</b>	<b>Wage earners (c)</b>	<b>Union members (d)</b>	<b>(d)/(a)</b>	<b>(d)/(b)</b>	<b>Membership among wage earners</b>
1988	53,595,963	51,732,445	34,279,202	9,092,685	16.97	17.58	21.9
1995	65,413,222	63,909,393	37,060,634	11,319,065	17.30	17.71	21.6
1999	71,853,858	68,341,333	39,528,703	11,616,738	16.17	17.00	19.7
2002	76,950,394	73,364,193	44,085,216	13,309,123	17.30	18.14	20.1

Source: Elaborated directly from the National Household Surveys

The differences between countries have to do with the process of economic restructuring, with changes in the social basis of labour unions and with political factors as well. In Argentina the process of de-industrialization dates back to the 1970s, when the liberal policies of the military government exposed Argentine industry to foreign competition without a program of transition that would give it enough time to catch up with prices and the lower greater productivity of the imported goods (Bulmer-Thomas, 1996). Besides, the military would persecute and kill hundreds of union leaders, as already mentioned. Unions lost 40% of their density from 1975 to 1985. Menemism would deepen the process of de-industrialization, and privatization would result in unemployment and in loss of union members. Apart from this, the CGT's alignment with Menem would prove politically heavy in the long run, particularly when the Menem government started to crumble with accusations of corruption and, later, with the economic crisis it unleashed. As in Brazil, privatization of public services and enterprises resulted in the loss of jobs in strategic economic branches under the CGT domain, such as petroleum, electricity and communications.

In Brazil, the stability of union density results from the ability of the labour movement to cope with the structural changes within the labour market. Manufacturing lost more than 2 million jobs and 500,000 affiliates from 1988 to 1998 (Cardoso, 2003: 227), but the service sector grew almost at the same pace, mainly in education and food and catering. If we regress the absolute variation of union density in 152 economic sectors against the variation of employment in these same sectors, we will be given an  $R^2$  of 0.81 (idem: 228). It must be repeated that, in Brazil as well as in Argentina, unions represent all the workers in a given jurisdiction, not only the unionized ones. This reduces the incentives for affiliation, since collective agreements hold for everyone. But unionization means the right to elect union leaders and gives access to social services such as medical and dental assistance, services that the Brazilian working class strongly values. This does not mean, of course, that unionism has maintained its social and political power. Manufacturing, banking and public servants in state-owned enterprises used to be the main forces inside the CUT, and the central federation had to face strong financial problems resulting from the weakening of these unions. Density is still the same, but the union market is not.

In Mexico, the loss in affiliation has similar causes: privatization; the de-industrialization of the central areas of the country; the growth of the services and informal sectors; growth of micro and small companies (unions are permitted in companies with at least 20 employees only); and the failure of the union leaders to attract affiliates in the new, emerging industries (De la Garza, 2003a). Many of the traditionally unionized companies moved to the north, establishing labour relations not mediated by unions. In 1980, employment in 'maquiladoras', the export-led assembly industries of the north of the country, represented 8 percent of the total employment in manufacturing. In 2001 the figure had reached 30.6 percent (Bendesky, 2003: 294). Besides, the growth of the informal sector also helped to reduce the potentially unionizable population.

But in all three countries the most important cause of the fall in union density is similar: the fragmentation of the labour market. As Marta Novick puts it for the case of Argentina - undoubtedly applicable to the other two cases - the system of labour relations has been disintegrated by the economic restructuring, and the various new forms of economic activities can be gathered in three main categories: (i) the subsystem of typical work, with full time, well designed jobs, social security, social benefits, job security, etc.; (ii) the subsystem of atypical work, with precarious labour contracts, part time, loosely

designed jobs, workers registered as self-employed, etc.; and (iii) the subsystem of informality, including occasional survival strategies during unemployment.<sup>30</sup> In the cases of Brazil and Mexico, I would add that informal labour relations is much more than a transitory condition. It is the single option of employment for growing parcels of workers in economies which do not create as many formal jobs as necessary to accommodate the growth of the economically active population. Subsystems (ii) and (iii) are growing in all three countries, at the expenses of subsystem (i). And they enrol 'invisible' workers in terms of both public regulation and union action, be it for their fragmentation in small and micro firms, be it because of illegality, pure and simple.

### ***Collective Bargaining***

Collective bargaining has also faced important changes in recent years.<sup>31</sup> In Mexico, as an immediate result of the economic changes, which reduced state control over important economic sectors and dislocated manufacturing employment to the north of the country, as well as the increased informal labour relations and weakened unions, the issues collectively negotiated are narrowing in scope. In Argentina, on the contrary, collective bargaining has enlarged its scope and the issues negotiated between labour and capital now include functional flexibility measures and industrial restructuring. But the formal labour market, where collective bargaining takes place, has shrunk dramatically. In Brazil, despite inadequacies in the available data, trends are similar to those of Mexico.

Collective bargaining in Argentina has never been a steady process, halted by social dialogue intents, by authoritarianism or by autocratic economic policies. Between 1973 and 1975, it was interrupted by a social pact for the promotion of stability in prices and wages. Bargaining was reopened in 1975 and the increases in wages and prices obtained by unions and employers led to strong economic effects (namely high inflation), which lasted for the next 16 years. In 1976 collective bargaining was once again suspended by the military regime, and the constitutional government of 1983 (Raul Alfonsín) enacted a series of economic policies to tame inflation, all of which were based on the control of salaries and prices. Collective bargaining resumed in 1987, but the hyperinflation of 1989 and 1990 was followed by generalized nominal wage increases via government decrees.

After 1991, with macroeconomic equilibrium guaranteed by the Convertibility Program (1 Peso = 1 US Dollar), agreements were again negotiated. Nonetheless, many unions restricted their actions to the negotiation of salaries, leaving untouched the clauses of the old agreements of 1975, based on the 'ultra-activity' principle (according to which if an agreement is not reached in a negotiation, previous clauses will hold). Ultra-activity was removed in 2001, a few months before the fall of the De La Rúa government, and it was established that in 2003, the Ministry of Labour would call for the negotiation of all collective agreements, mainly in those sectors where the accords of 1975 had not yet been revised. In fact, since 1991 many unions have revised their collective agreements, but many others have not, based on the ultra-activity clause. This is the case of the most important union in manufacturing, the UOM – Unión Obrera Metalúrgica (Metal-Workers Union). For unions that did negotiate since 1991, some statistics were produced by the Ministry of Labour (Table 5).

---

<sup>30</sup> See Novick (2001: passim).

<sup>31</sup> The most important features of the bargaining systems of the three countries can be found in the Appendix.

**Table 5**  
**Revisions of Collective Agreements in Argentina – 1991-2002**

Year	Scope			TOTAL
	Activity	Sector	Firm	
1991	38	41	18	97
1992	109	56	44	209
1993	88	39	91	218
1994	77	21	104	202
1995	67	4	125	196
1996	31	14	107	152
1997	31	10	167	208
1998	28	2	189	219
1999	28	4	152	184
2000	12	0	64	76
2001	22	0	128	150
2002*	10	0	47	57
<b>TOTAL</b>	<b>541</b>	<b>191</b>	<b>1236</b>	<b>1968</b>

\* Until August

Source: Palomino and Senen (2003)

Since 1991, the dynamics of collective bargaining has responded to the major changes in the economic scenario and in labour market regulations, affecting not only the quantity of agreements, but also the quality of negotiations. Three qualitative changes are worth noting: (i) the increasing decentralization of the negotiation process; (ii) the adaptability of the issues negotiated; and (iii) the incorporation of criteria related to productivity of the firms.

In 1991 negotiations at the firm level represented only 19% of all agreements, while agreements at sector level were 28% of the total, and at the level of the economic activity, more than 50%. But in 1998 firm level accords mounted to 86% of the total and to 82% in 2002, whereas agreements at the activity level were responsible for the other 18%. There was not a single, sector-level collective agreement in 2002.

The movement of agreements from activity and sector to the firm reflects a major change in the issues negotiated. In 1991, according to Novick (2003: 10), 40.4% of all agreements had only set rules for salaries. In 1999, this figure had fallen to 12%. Nonetheless, salaries are still a major issue in workers' demands. From 1991 to 1999, 23% of all accords focussed exclusively on wages, and 20% of the remaining dealt with wages and a single other issue (idem: 9). Other important issues relate to working hours (35% of all agreements from 1991 to 2002), multi-functionality and team work (29%); professional training (22%); mechanisms of conflict resolution (without the interference of third parties – 21%) and others. Although most agreements have been set at the firm level, only in four of them did the union signing the document represent exclusively the workers of a particular firm. In all other cases the accords were signed by sector or activity unions (Palomino and Senen, 2003: 7).

Like in Brazil and Mexico, flexibility measures are important issues of collective bargaining in Argentina, particularly because of their possible (but also contested) impact on employment creation. Novick (2003) identifies four major labels under which flexibility has been negotiated in the nineties: (i) external flexibility, through changes via the introduction of various kinds of temporary employment contracts; (ii) flexible attribution and distribution of working hours throughout the month or the year; (iii) flexibility in the organization of work, including functional mobility and multi-tasking; and (iv) flexible

salaries, incorporating productivity gains and pay subordinated to participation in quality control programs. Based on these four issues, Marta Novick has constructed a scale of flexibility negotiated in collective agreements that can vary from one to four. The results for the period 1991-99 appear in the Table 6.

From 1991 to the first semester of 1999, capital and labour reached 1,598 agreements, of which 58% (921) had at least one clause related to flexibility. The issues escalated from 1996 onwards, when most contracts had at least 3 flexibility clauses. The table does not show, but working hours was the most important clause (571), followed by flexible contracts (484) and flexible organization of work (478). Flexible pay appeared only in 252 agreements (data in Novick, 2003: 18).

**Table 6**  
**Index of flexibility of collective agreements in Argentina – 1991-1999**

Index of flexibility	1991	1992	1993	1994	1995	1996	1997	1998	1999*	Total
I	27	59	59	61	46	33	58	47	17	<b>407</b>
II	10	26	28	30	15	21	24	38	41	<b>233</b>
III	1	8	17	12	33	34	39	54	14	<b>212</b>
IV		1	3	3	4	14	18	19	7	<b>69</b>
<b>Total</b>	<b>38</b>	<b>94</b>	<b>107</b>	<b>106</b>	<b>98</b>	<b>102</b>	<b>139</b>	<b>158</b>	<b>79</b>	<b>921</b>

\* First semester

Source: Novick (2003: 18)

Among the companies where all four items of flexibility have been negotiated, there are privatized firms of electricity and railways, and foreign companies that have either recently installed or re-installed their plants in the country, including in the financial sector. Twenty nine out of 69 agreements covering all four issues of flexibility occurred in manufacturing sectors, mostly the auto-industry (assembly and auto-parts), textiles, food, telecommunications (agreements reached at the end of the 1990s) and others centrally affected by the economic restructuring. On the other pole, negotiations involving only one clause included agro-industry, health and telecommunications (in the latter, agreements reached before the privatization process). Two or three issues were recurrent in food and catering agreements, plastics, air transports and others. That is to say, firms in sectors exposed to the ‘competitive shock’ resulting from the economic opening have been more effective in the negotiation of flexibility. Novick hypothesizes that unions had to acquiesce in face of the threat posed by growing unemployment rates and due to firms’ threats of fleeing to other countries of the Mercosul region. As a rule, there has not been any trade-off of flexibility for job security except in particular firms, and when it happened, it was for short periods of time.

Another important theme appearing in negotiations has been the character of the relations between capital and trade unions. This is a major issue in industrial relations at large, and forms the very possibility of interest representation, functioning as a true measure of union power and its evolution over time. Following the same methodology of the index of flexibility, Marta Novick has built a scale of issues related to union activity. Five items were included: (i) Regulation of union activities, clauses that would permit agreements different from what is established by law; (ii) proceedings for conflict and grievances resolution; (iii) mechanisms of auto-composition of conflicts; (iv) institutionalized channels and consulting schemes for the negotiation of norms and methods of work; and (v) bi-partite commissions for accidents and safety.



Firm-to-unions' relations are not as frequent in agreements as compared to the clauses related to flexibility. As can be seen in Table 7, less than one third of all agreements had such clauses, and in almost half of them only one issue has been negotiated. Here, as before, the majority of the bargaining process has taken place at the firm level.

**Table 7**  
**Evolution of bargaining over union-firm relations, 1991-1999**

<b>Index of union-firm relations</b>	<b>1991</b>	<b>1992</b>	<b>1993</b>	<b>1994</b>	<b>1995</b>	<b>1996</b>	<b>1997</b>	<b>1998</b>	<b>1999*</b>	<b>Total</b>
I	9	30	28	28	36	26	36	45	11	<b>249</b>
II	2	7	15	23	25	17	14	27	11	<b>141</b>
III	2	3	2	9	9	19	19	18	3	<b>84</b>
IV			3	6	6	9	7	13	6	<b>50</b>
V				2	4			7	1	<b>14</b>
<b>Total</b>	<b>13</b>	<b>40</b>	<b>48</b>	<b>68</b>	<b>80</b>	<b>71</b>	<b>76</b>	<b>110</b>	<b>32</b>	<b>538</b>

\* First semester

Source: Novick (2003: 26)

The main issues appearing in collective bargaining have been mechanisms of auto-composition of conflicts (363 agreements). Regulation of union activities appear in 239 agreements, and institutions for the negotiation of norms and methods of work, in 173. The other two are minority issues. It must be stated that the right to information granted to unions appears in only 6% of the contracts of the period. The most powerful unions that could include all five issues in their agreements are three federations of the railway sector (86%), and auto-industry and electricity unions. With four clauses we find the same three sectors plus telecommunications, water services and overseas transports. As the index descends, the number of sectors involved increase, but at levels II and III almost 50% of the sectors are in manufacturing (food and catering, beverages, tobacco, textiles etc).

There is an important relationship between the intensity of the negotiation of union-firm related rules and the bargaining of flexibility. As a rule, if a union does not negotiate union-firm regulations, it will not negotiate flexibility measures either (the conditional probability is 70%). On the other hand, if it negotiates 3 or more issues about union power, there is a 71% chance that it will also negotiate 3 or 4 flexibility related issues. This does not mean, of course, that firms that do not negotiate flexibility measures do not apply them in practice. One should expect just the opposite. It is probably because most unions are weak (weakness measured by the absence of issues related to union power in collective agreements) that flexibility measures are not negotiated, and are most probably imposed on workers.

Taking the two issues together, it can be said, first, that the general trend in collective bargaining has been the increase in the number of clauses and the diversification of the resulting agreements, that encompass issues far beyond wages, the major theme in the beginning of the 1990s. Second, that the tendency towards the decentralization of collective bargaining reflects major changes in the pattern of labour relations that prevailed in the previous period, based in more centralized conflict. Decentralized collective bargaining may denote more focused agreements, related to issues specific to a firm and its workers' interests. Firm level agreements are also more flexible. Sixty four per cent of the 1,224 agreements that have exceeded wage issues were negotiated at least twice during the 1990s, that is, they have been re-negotiated to include further measures or review previous agreements (Novick, 2003: 11). Third, unions acquiesced in what can be named a 'concession bargaining process', but exchanged flexibility at the firm level (that is to say,

in issues related to individual rights) for the preservation of their status at the collective rights level (union structure, collective bargaining rights and union funds). This has been assured mostly through political bargaining at the state level, that is, by direct pressures of CGT leaders over the Menem government (Novick, 2001).

In spite of this, the number of workers covered by collective agreements fell in tandem with the reduction of the formal labour market and the increase in unemployment rates. According to ILO (1997: 248), the collective bargaining coverage extended to 73% of the employees in Argentina in 1995. This figure under-estimates the problem. Summing up the unemployed and the under-employed demanding a job in October 1995, we reach 24 per cent of the EAP.<sup>32</sup> If we add the self-employed, which represented close to 24% of the EAP, we will have some 48% of the economically active population not covered by collective agreements. This figure has jumped to 57% (29% unemployed or demanding a job, plus 28% of self-employed workers) in 2003, according to the same source. Thus, the potential reach of collective bargaining, excluding employers, was of less than 43% of the EAP in 2003.

In sum, collective bargaining is decentralized, includes issues previously absent, such as union power and flexibility, but its coverage is decreasing due to economic restructuring and, more recently, economic crisis. And it should be underlined that workers not covered by collective agreements also tend not to be covered by the law, because they are either in the informal sector or unemployed.

In Mexico the tendency is somewhat different, and sometimes opposed to the one we have found for Argentina, though the available data is not strictly comparable. It is limited to manufacturing, resulting from two rounds of the Encuesta Nacional de Empleo, Salarios, Tecnología y Capacitación (National Survey on Employment, Wages, Technology and Training - ENESTyC). The survey asks for labour regulations effectively prevailing in labour relations, regardless of whether they are formal collective agreements, firm specific regulations or accords of any kind.

Table 8 shows the variation in the rate of labour regulations in manufacturing from 1995 to 1999, by size of firms. The data has been ordered according to the actual distribution of the rate of regulations by firm size in 1995 and 1999, in order to better capture the general trends. First of all, looking at the column 'Total', we can see that the rate of regulations is quite small, varying from a mere 18% in 1995, regarding rules about job design and assignment of tasks to workers, to 4.3% for the use of subcontracted labour. In 1999 the rates were still smaller, varying from 8.6% (regulation on the adoption of quality control and productivity programs) to 1.6% in the use of subcontracting. There has been a clear reduction of the areas in which collective bargaining could influence the organization of work. In 1999, the rate of regulations was almost 60% smaller than five years before, and the rate of reduction is correlated with the size of firm. The smaller it is, the greater the loss of regulation in labour relations.

Second, the micro-firms skew the distribution of the regulations towards smaller numbers. The highest percentage of rules appear in the introduction of quality control and productivity programs (17% in 1995), but in 1999 no issue goes beyond a 6% rate. It

---

<sup>32</sup> Data in <http://www.indec.mecon.ar>.

should be noted that micro-firms represented almost 92% of the sample, and their small rate of regulation pulls down the higher numbers of the minority firms<sup>33</sup>.

Third, the ranking of the whole table based on the distribution of regulations in big firms in 1995 reveals a pervasive hierarchy throughout all firm sizes, with slight variations in the case of micro-firms. On the top we can see high rates of formal regulations of job designs and assignment of tasks to workers, as well as rules of promotion, especially in big and medium firms. This has to do with the historical process of incorporation of workers in manufacturing, with the prevalence of *scalafon* systems according to which workers have clear career expectations related to job assignments and strict rules of promotion<sup>34</sup>. Considering its widespread institution in the years previous to economic restructuring, we can say that *scalafon* is losing terrain in manufacturing even in big firms. Regulation of promotion fell from 77% to 61% in five years in big companies, and from 68% to 52% in medium firms. This represents a loss of formal parameters for careers of more than 15 percentage points in only five years. This also contributes to explain the high proportion of regulations concerning part-time labour. The issues are connected: workers hired 'for life' have strong interest in the regulation of part-time jobs that can, in the long run, jeopardize their own jobs.

Regulation of the selection of personnel was also very high in big and medium firms in 1995, but the rate fell sharply five years later. This has also to do with 'history', or to the clause of exclusion that granted unions the right to name the workers to be hired by firms, something that was also important in small enterprises. The fall in medium firms amounts to 20 percentage points, or to more than 31% of regulation loss in five years. A major loss has also happened in the terrain of functional mobility. Rigid *scalafon* systems meant that workers could not be transferred from one job to another without explicit acquiescence from unions or workers representatives. The rules of promotion were also determined from the outset, that is, the day the worker was hired she knew how long it would take for her to reach the top of her career. The auto-industry (Pries et al., 1998) and textile industries (Arciniega, 1998) are prime examples of such a pattern of labour regulation. But in 1999 less than a third of big companies and one fifth of medium ones had any kind of regulation of the sort. This does not mean that multi-functionality was unimportant in major firms. On the contrary. In 1995, 64% of all big firms and 50% of the medium ones had introduced at least one measure of flexible work, according to the ENESTyC survey.<sup>35</sup>

---

<sup>33</sup> Data retrieved from [http://www.stps.gob.mx/01\\_oficina/05\\_cgpeet/302\\_0395.htm](http://www.stps.gob.mx/01_oficina/05_cgpeet/302_0395.htm), in November 02, 2003.

<sup>34</sup> For the auto-industry, see Dombois e Pries eds. (1997). For the historical process of consolidation of the *scalafon* system, see Bensusán (2000).

<sup>35</sup> Data retrieved from [http://www.stps.gob.mx/01\\_oficina/05\\_cgpeet/302\\_0424.htm](http://www.stps.gob.mx/01_oficina/05_cgpeet/302_0424.htm) on November 02, 2003.

**Table 8**  
**Mean rate of labour regulations according to the size of firms – Mexico, 1995 and 1999**

Issues of labour regulation	Size of Firm										Mean Variation (1995=100)
	Big		Medium		Small		Micro		Total		
	1995	1999	1995	1999	1995	1999	1995	1999	1995	1999	
Job design and assignment of tasks	78.1	74.1	73.1	64.7	55.4	36.6	14.3	4.0	18.0	7.2	<b>69.3</b>
Promotion	76.8	61.5	68.3	51.6	43.0	27.2	7.1	5.6	10.5	5.2	<b>74.6</b>
Hiring of part time labour	74.8	64.6	67.7	52.6	45.7	25.6	9.8	4.9	13.1	7.2	<b>67.5</b>
Selection of personnel	69.1	55.8	63.1	43.9	43.5	29.0	9.7	3.3	12.8	6.0	<b>63.6</b>
Quality/productivity programs	68.6	53.7	61.5	42.7	45.7	35.1	16.8	6.0	19.4	8.6	<b>65.1</b>
Functional mobility	51.6	28.2	41.9	22.2	25.6	17.8	8.3	2.8	10.1	4.2	<b>52.7</b>
Dismissals	46.0	28.4	40.5	19.3	30.8	10.3	9.3	1.3	11.3	2.3	<b>39.2</b>
Changes in the organization of work	45.7	27.1	37.3	21.7	25.3	14.8	6.9	2.6	8.6	3.7	<b>53.3</b>
Creation of confidence jobs	41.1	26.2	34.1	22.8	26.1	16.1	9.8	5.0	6.8	3.2	<b>60.8</b>
Introd. of new technologies	38.7	24.3	30.5	19.5	20.6	12.4	5.0	2.0	6.5	3.0	<b>56.6</b>
Use of subcontracted labour	25.0	16.8	17.7	9.8	11.0	4.9	3.5	1.2	4.3	1.6	<b>50.1</b>
<b>Mean variation (1995=100)</b>		<b>71.8</b>		<b>66.0</b>		<b>59.7</b>		<b>39.9</b>		<b>42.9</b>	

Source: Adapted (and corrected after checking with the original source) from Herrera and Melgoza (2003: p 342-4).

Contrary to Argentina, collective bargaining in Mexico is losing complexity in terms of the items negotiated by unions and employers. If the rate of labour regulation can be taken as a good proxy of what is actually negotiated, firms have managed to make agreements less complex and more flexible than before. The reduction in the number of stances of regulation means that firms are gaining bargaining power *vis-à-vis* the individual worker and also the unions. The data are quite clear in this respect. The reduction in the rate of labour regulations occurred in every single issue of the organization of work. There has not been any tradeoff between measures, say, flexibilization of the *scalafon* systems in exchange for more union control over quality control programs or union power within the firms (see De La Garza, 2003: 121-147).

The ENESTyC survey provides some important data on the actors of collective bargaining in Mexico. Table 9 shows that the proportion of firms where workers are represented by unions is falling except in the larger ones. In 1992 15% of all firms had unions to bargain with. In 1999, the figure was of only 8.1%. The major fall happened in micro and small companies, a reduction of 40% and 35% respectively in seven years. Unionism and collective bargaining, then, are matters for medium and big enterprises, which explains the higher rate of labour regulations in these two strata. On the other hand, the sheer stability of the (very high) presence of unions in these companies reaffirms the suggestion that labour regulations are becoming more flexible (less complex) in spite of union representation.

**Table 9**  
**Proportion of firms with unions by size of firm**

Size	1992	1995	1999
Big	87.1	89.5	90.1
Medium	84.0	84.5	79.9
Small	66.0	60.1	42.7
Micro	6.9	9.5	4.2
<b>Total</b>	<b>15.2</b>	<b>14.1</b>	<b>8.1</b>

Source: ENESTyC's homepage

Coverage of collective bargaining is also restricted in Mexico. According to De La Garza (2001: 195), in 1998 the number of workers eligible to be represented by unions was 1.8 million, out of an EAP of 38.5 million (number in Salas and Zepeda, 2003: 56). Thus, maximum potential coverage was 30.6 per cent of the economically active population, much less than in Argentina. Besides, collective bargaining is a common event in manufacturing more than in other sectors. Almost 70 per cent of manufacturing workers were potentially covered by the bargaining system in 2000, while in trade and construction the potential coverage was 30 per cent or less (services would not reach 50 per cent in 2000. See Salas and Zepeda, 2003: 63). And of course, potential coverage does not mean real coverage. Many big firms are union free or have 'sindicatos blancos' and, as we have seen, most of manufacturing workers in the north of the country are not represented by unions at all. It is impossible to say how many of the existing agreements are 'protection contracts', documents deposited by firms in local conciliation courts without the acknowledgement of unions or workers. So, bargaining is less complex than before, strongly decentralized, and covers between only one fourth to one third of the active population.

In Brazil systematic data on collective bargaining is virtually absent. Only the DIEESE, the Interunion Department of Socioeconomic Studies and Statistics, collects and

analyses bargaining results on a regular basis, but this is restricted to selected unions and years. In any event, DIEESE states that its system of follow up is reliable and representative of collective bargaining in the country (DIEESE, 1997).<sup>36</sup> Apart from this source, only in case studies covering particular issues we will find information about the changes in the bargaining process.

According to the DIEESE, there have been three main trends in the collective bargaining process in the nineties. First of all, while in the 1980's wages occupied the centre of the worries of unions, because of the inflationary process, employment came to the fore in the 1990s as the main issue. But the number of clauses that unions would effectively conquer has been small. Only in some cases they would directly relate to the maintenance or increase in the number of jobs, such as some kind of guarantee of the level of employment during a particular period, reduction of working hours to temporarily secure jobs, elimination of extra-time work and job security during the restructuring process involving new technologies. Most other clauses would not represent effective gains beyond the existing legal rights, for instance, extending job security to workers in special conditions (handicapped, with work related diseases or accidents).

Second, even though reskilling and training related to restructuring started to appear in some collective conventions, generic clauses have prevailed. Agreements that would compromise firms via the establishment of amounts of investments were rare. The same can be said about protection in case of economic restructuring and technological change, almost never regulated and, when it was the case, the clauses were generic and ineffective. Third, and much like in Argentina and Mexico, "essential guarantees for the creation of an environment allowing for the equilibrium between the parties in collective bargaining – like plant level organization of workers and access to information about firms – are still absent" (DIEESE, 1997: 62). This is an important issue in the three countries: the absence of clauses related to union power at the firm level. Without access to information concerning the economic performance of the firm, unions must restrict their demands to what the employer states to be the 'possible' concessions in the new, competitive economic environment. Many negotiations in the nineties were performed under the threat of firm closing or fleeing.

Neto (1999: 162) has detected similar tendencies in his analysis of 27 conventions and 100 collective agreements of 8 important unions in four Brazilian States. He found that productive restructuring was only effectively negotiated in the auto-industry of the São Paulo Metropolitan Region. On the other hand, only among chemical and metal workers, participation in profits and reduction in working hours without reduction in wages were also negotiated. As in the case of the DIEESE's study, clauses beyond legal rights were the exception. Going a step further, Tuma (1999) shows that the participation in profits gained momentum in the 1990s as an important bargaining issue. Virtually all big firms have negotiated some kind of participation in profits. Analyzing nearly 1,000 accords and conventions, she found strong evidence that workers are exchanging greater parts of the basic, fixed salaries for participation in profits (PLR). This happened in big and small unions as well (idem: 147 and 201). As she puts it "wage flexibility is spreading through PLR, along with the extinction of wage increases resulting from productivity gains. In 1995, first year of the PLR legislation, we would still find accords stipulating productivity gains. But from 1996 to date this clause, which used to be the second most important one

---

<sup>36</sup> DIEESE analyzed 193 collective conventions, 51 collective agreements, 11 judicial arbitrages and 31 additive terms, covering 88 professional categories in Brazil, 61 of which were from manufacturing.

in wage bargaining, [productivity gains] virtually disappeared from the accords of the strongest unions” (Tuma, 1999: 188-89).

As in Mexico, in Brazil the collective bargaining process would neither halt labour market flexibility nor reduce its pace. In exchange for some job security (restricted to a short period of time or to a small number of workers), strong unions, like the Metal Workers’ Union of the São Paulo ABC Region, had to concede, through collective bargaining, fringe benefits and other important gains harshly obtained in the 1980’s, such as transport, housing and food subsidies, overtime work paid above legal provisions and other benefits in exchange for keeping an automobile plant in São Bernardo do Campo (more on which below, on the Social Dialogue section. See, also, Cardoso, 2003: chap. 1). The same happened with the metalworkers of the region of Campinas, also in the São Paulo State (Araújo e Gitahy, 2003: p 105-6). Much like Argentina, collective bargaining was strongly decentralized, with collective accords (between one union and one firm) prevailing over collective conventions (all the firms of a municipality. See Oliveira, 2003: 292). Finally, unions had to negotiate the loss of important gains from the 1980s, under the threat of unemployment, of firm bankruptcy and threats of moving from one state to another, or even to other countries in Latin America.

As a general trend, it can be said that the loss of power and of capacity for collective action reduced unions’ ability to interfere, via collective bargaining, in the two measures of flexibility: internal, functional flexibility, and external flexibility. In all three countries, they would either not negotiate employment issues whatsoever or do so in ineffective ways. And in many cases, the bargaining process served as a means to reduce workers’ rights and the scope of the working conditions that were regulated either by the law or by previous collective agreements. Some selected cases give a strong example of the unbalanced position workers faced in the 1990s.

In 1997 the car manufacturer Volkswagen (VW) threatened to dismiss 10,000 workers at its plant in the ABC Region in São Paulo, unless it reduced its production costs by 2.3 per cent. After harsh negotiations, the Metalworkers’ Union ceded fringe benefits and other fiduciary rights collectively agreed in the eighties, amounting to the 2.3 per cent demanded by the company. The workers were not dismissed, but the company opened a plan of ‘voluntary leave’, and nearly 2,000 workers joined it. In 1998 VW threatened to move the plant away from the ABC Region unless it could dismiss 7,500 workers. The Workers’ Union negotiated a reduction of 15 per cent in salaries and working hours in exchange for 12 months of job security. But in the years, that followed, the company did not replace retired workers and has increased its traditionally low turnover rates. These measures resulted in the reduction of more than 2,000 jobs in four years. Employment was neither created nor maintained, despite the permanence of the plant in São Bernardo and the introduction of a new assembly line that would, as promised by the company, create jobs. This has not happened (see Cardoso, 2003: chap. 1 for details).

In December 1998, the Ford Motor Company announced the dismissal of 2,600 of the 6,000 workers from its plant in São Bernardo. A long strike took place and after 44 days of acute negotiations between the parties, the workers were re-contracted. The company started a ‘voluntary leave’ plan, and in a press-released note, the workers’ union and the company’s executives announced the creation of a bipartite commission to study

mechanisms to improve the productivity of the plant. But in July 2003, the plant had just 4,000 workers, 2,000 less than five years before.<sup>37</sup>

In Mexico, in 1992, after a strike of almost 60 days where the workers protested against the company's intent to discontinue assembly lines and restructure the organization of work, the VW administration of the Puebla plant dismissed all of its workers. If the union did not accept VW's terms, the plant would move to the northern border of the country. After a negotiation mediated by the federal government, the workers were re-hired, without the intermediation of the union, and were forced to accept the flexibilization of the *scalon* system and the introduction of new norms of work (cellular production, continuous improvement systems, total quality control and others). After this, the number of jobs was reduced by 3,000, and the number of union stewards fell from 200 to 16 (Dombois and Pries, 2000: 89-93).

### **Collective Action**

Strike statistics are among the least reliable measures in social sciences, not only in Latin America (Korpi and Shalev, 1980). Few nations have an official system of data collection, and the analysts must rely on secondary sources of all kinds, such as newspapers or interviews with union leaders. Mexico is one deviant case, because of the connections that structurally linked unions to the Ministry of Labour, forcing them to produce more accurate administrative registers of their collective bargaining actions, one of which is a strike. But corruption and mishandling of official data also make it unreliable. In Brazil and in Argentina, the data are precarious and, more importantly, vary from one year to another due to different reasons: a researcher that stops collecting the data, a labour regulation that changes the definition of a strike, or a fall in the salience of (and public interest in) labour conflicts in democratized societies, which reduces their media coverage and attention. This means that the data are comparable over time neither within a country, nor between countries, which limits the scope of a comparative analysis. Nonetheless, we can identify a common trend in the three countries: collective action has fallen in recent years.

Since 1980 up until 2002, there have been close to 10,000 labour conflicts in Argentina, according to the Centro de Estudios Nueva Mayoría. Three main trends can be identified in Graph 1. First, from 1980 to 1985, when conflicts were under 400 cases per year. The second period coincides with the economic crisis that would finally usher in the Menem administration, from 1986 to 1990. This was also the period of a burst in collective action in Brazil, having to do with the democratization process and with the consolidation of labour unions and central federations in both countries. The number of conflicts doubled, reaching a peak in 1988, with 949 strikes. The third period runs from 1991 to the present. Strikes decrease to a level equivalent to the first period, then fall to the minimum of 125 conflicts, only to start to escalate again after 1997, though never to reach the levels of the second period.

The same source of Graph 1 shows that labour conflict is correlated with unemployment and with inflation rates. In fact, the re-composition of salaries has been a major concern of labour movement in Argentina (and in Brazil) in the 1980's. The stabilization of the economy in the 1990s brought labour's conflictive strategies to a halt. Both in Brazil and Argentina, growing inflation rates made it rational for union leaders to develop a contentious social strategy based on large, branch level strikes demanding the

---

<sup>37</sup> Data in newspaper *Folha de São Paulo*, 10/29/2003, page B2.



indexing of salaries to past inflation. This was done against official restrictive policies designed to control inflation at the cost of wage earners (Tavares de Almeida, 1992) which, as a side effect, turned strictly economic strikes into political protests against governments in both countries. In the 1990s, salary changes would no longer affect workers, most of them afraid of losing their jobs in an environment of increasing unemployment. Unemployment tends to reduce workers' willingness to act in economies lacking adequate unemployment insurance, such as Argentina and Brazil.

**Graph 1**

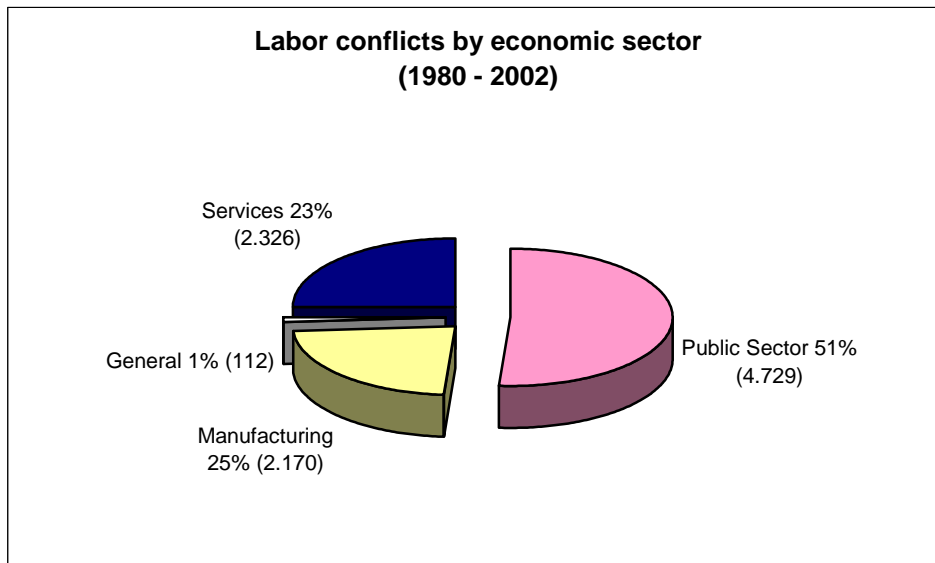


Obs: 2002 up to December 24  
 Source: Centro de Estudios Nueva Mayoría (appud Palomino and Senen, 2003)

The majority of labour conflicts in the period (51%) enrolled workers of state enterprises and public servants. Manufacturing workers contributed with 25% of the conflicts, with services' workers responding for 23%. The other 1% were regional and general (national) strikes (Graph 2). The public sector has increased its participation over time. In the 1980s, 45% of all strikes were from public sector workers, increasing to 58% in the 1990s and to 60% in the first two months of 2000.

## Graph 2

Source: Centro de Estudios Nueva Mayoría (appud Palomino and Senen, 2003)

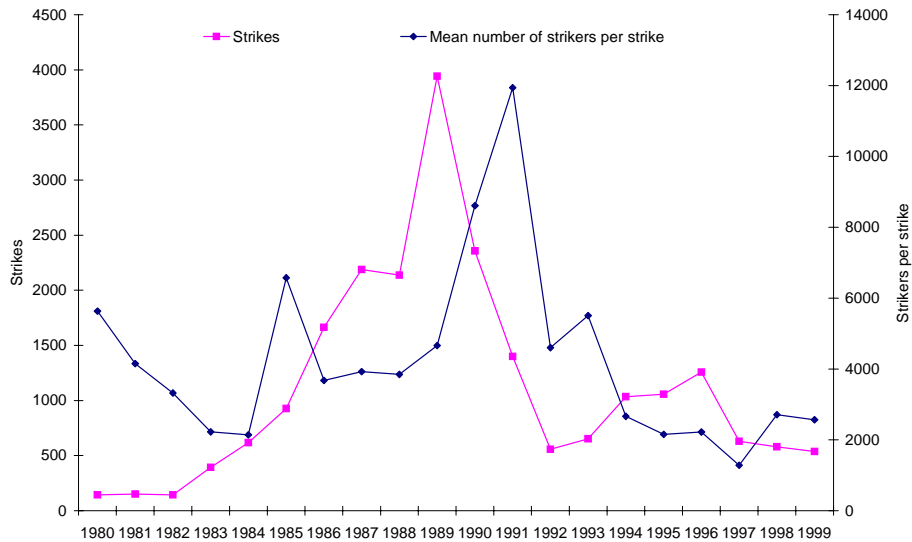


In Argentina, general strikes are an important form of labour protest. According to the same source of the previous figures and tables, since the re-democratization of 1983, 33 general strikes took place in the country. They would occur in a mean frequency of every six months during the Alfonsín's period, every 15 months during the Menem administration, every 3 months under De La Rúa and every 4 months under Duhalde. These different frequencies denote the support granted to Menem by the CGT and the role of the labour movement in serving as a catalyst for popular protest after the demise of the Convertibility Plan. It should be noted that one of the general strikes under Menem was called for by the CTA, not the CGT.

In the case of Brazil, despite the mentioned drawbacks in the labour movement's general environment, union action was not mute whatsoever. Strike activity, though quite less intense from 1992 to date, has never left the scene. Graph 3 shows the evolution of the number of strikes and the mean number of strikers per strike between 1980 and 1999. Note that, following on the Argentine footsteps, the number of strikes escalated from 1982 to 1989, the period of democratization and also of high inflation, going down to a more stable figure in the 1990s, varying from 500 to 1,500 per year. The number of participants followed suite.

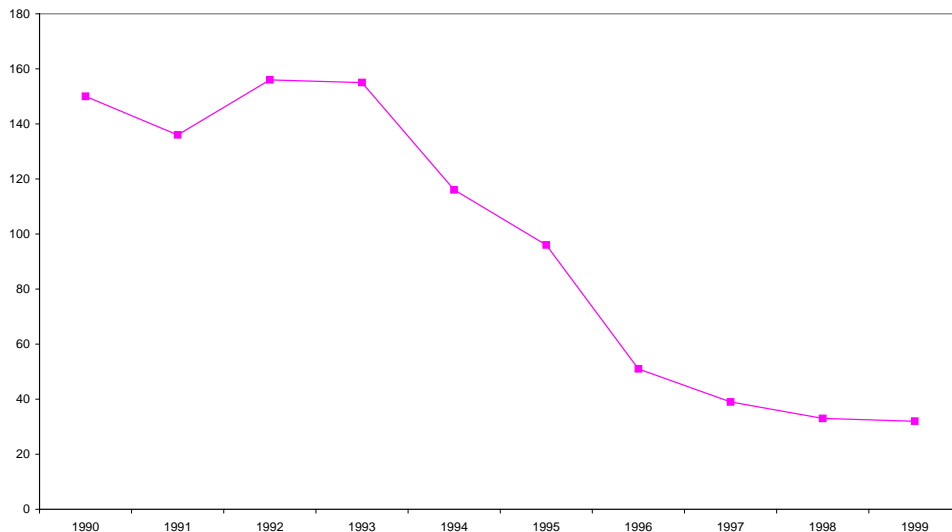
Brazil, similar to Argentina, saw its apex of labour unrest in the 1980s, a period of rebirth and reorganization of the labour movement. It thus cannot be taken as a parameter to judge the activity of the nineties. The countries may be facing some kind of stabilization of collective action in a level that is still higher than that of many western countries. In any event, the strong fall from the 1980s to the 1990s may also be reflecting the increase in workers' fear to engage in collective action. High unemployment rates, wage insecurity, job insecurity, and increasing informality of the labour market as a whole, are augmenting the costs of failure of collective action. The loss of jobs as a punishment for union militancy can manifest impoverishment, social exclusion, and hunger.

**Graph 3**  
**Strikes and strikers in 20 years - Brazil**



In Mexico the trends are about the same, even though the conflicts are by far less intense than in the other two countries. As shown in Graph 4, the number of strikes in Mexico is much smaller, and fell strongly in the 1990s. The number of strikers also fell sharply, according to the same source. Bensusán (2003: 55) states that these trends follow the “tendency observed since 1984, confirming the success of the restrictive labour policy of the last three [federal] administrations, which combined huge losses in the purchasing power of wages with an undisputable capacity of control of labour conflict through the traditional corporatist channels”.

**Graph 4**  
**Number of Strikes in Mexico in the 1990s**



Source: Adapted from Bensusán (2003: 60)

The figures highlight poignantly the deep crisis faced by the labour movement in the three countries. Unions lost affiliates, money, capacity for collective action and strength in collective bargaining. It is no wonder that, by the turn of the new century, they had also lost legitimacy. In Brazil, in 1990 more than 60% of the adult population trusted unions, rating them just below the Catholic Church; in 2001 the figure had dropped to 27% (Cardoso, 2003: 302). In Argentina, trust in unions was a mere 8% in 1996 (Valdovinos, 1998: 253). The history of the economic restructuring process in Latin America is also the history of the de-legitimization of unions as parties on their own right in social relations at large and more specifically in economic and labour relations.

### ***New social agents and social movements***

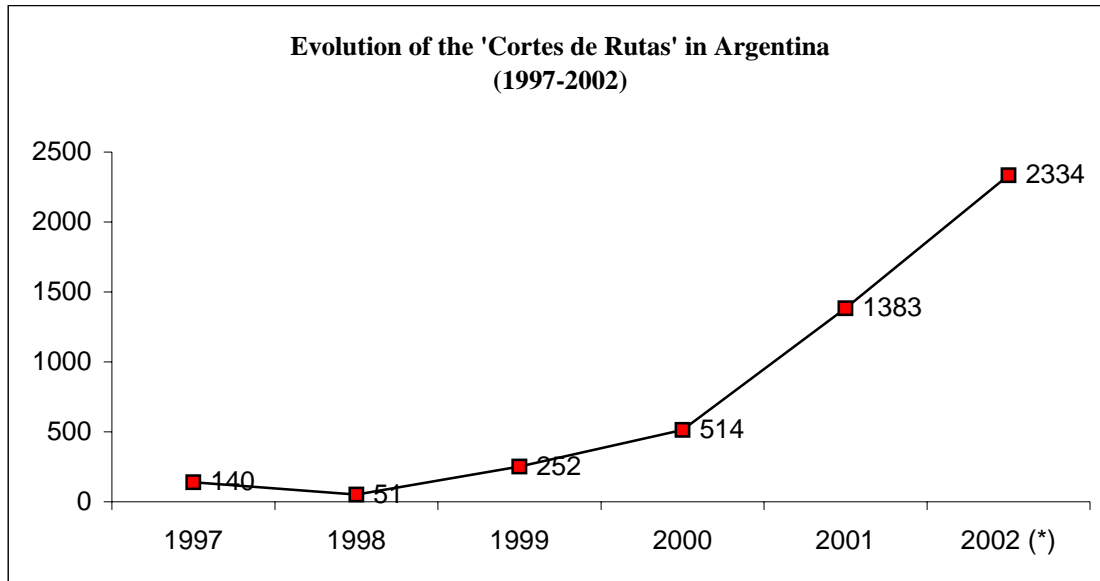
As Paul Buchanan puts it, a social movement “has to bring together a broad-based coalition around a single issue or narrow set of issues. The object is to raise mass consciousness in order to build ideological bridges between social, functional or ethnic groups. The goal is to find a theme with substantive appeal across classes, races, ethnicity, religion, gender and the like, and then to appropriate the definitional grounds for any debate on that subject” (Buchanan, 1997: 123). Argentina, Brazil and Mexico have witnessed a strong revival of civil society, mostly protesting against neo-liberal policies. The Landless Workers Movement in Brazil, the anti-globalization movements of Porto Alegre, the Zapatista Army in Mexico, and the movements of the unemployed in Argentina are major examples of what Buchanan has named ‘counter-hegemonic’ forces in the neo-liberal Latin America.

Beginning with Argentina, in March 1997 the country exploded “in a bout of social conflict and popular upheaval” (Pozzi, 2000: 63), despite important academic arguments stating that Argentine working classes had undergone major changes in the previous years, resulting in its fragmentation and loss of capacity for collective action, either because of the military pursuit and assassination of leftist militants, or because of the demobilization policies of Peronist unions by the Menem government.<sup>38</sup> Against all odds, the pickets starting in March inaugurated a sort of action that would escalate in the years to follow, a new form of social protest known as the ‘cortes de rutas’, or barricades in roads to block the traffic within the cities, between cities and even regions of the country. Until December 2002, 4,674 ‘cortes de ruta’ had already been registered by the ‘Centro de Estudios Nueva Mayoría’ of Buenos Aires, half of which took place in 2002. The growth of this form of social protest can be seen in Graph 5, showing how important the pickets have become.

---

<sup>38</sup> See, for instance, Campione (1994), Ranis (1989) and, in part, Buchanan (1995).

Graph 5



(\*) Until December 24

Source: Centro de Estudios Nueva Mayoría (appud Palomino and Senen, 2003)

At first, the movement would enrol mostly unemployed people, but in many circumstances the entire communities would join the riots in support of groups dismissed in the process of privatization of state enterprises, for teachers on strike or women supporting their unemployed husbands. The pickets rapidly gained a national character that efficiently reproduced the form of protest.

According to the same source of Graph 5, the movement is widespread in the country. Twenty nine percent of all blockages (1,271) happened in the district of Buenos Aires, but the protests were dispersed widely: Jujuy had 680 cases.<sup>39</sup> Salta 317, Tucumán 255, Córdoba 230, Santa Fe 215, Neuquén 187, Chaco 165, and Mendoza 129.

Another new and important form of organization is the Congreso de los Trabajadores Argentinos (Congress of Argentine Workers – CTA). Initially bringing together state employees and the teachers' union, the CTA has extended its affiliation to other social actors, trying to encompass in its collective action and organization process, demands from broader sectors of the population, like NGOs, unemployed organizations, as well as neighbourhood associations. In a way, the CTA is more properly a 'social-movement unionism',<sup>40</sup> for it tries to organize interests far beyond that of the employed workers, and has a strong stake in class consciousness creation, with a leftist ideology and a discourse addressed to the whole Latin American working class (Rauber, 1999). The CTA has been officially represented in all of the meetings of the World Social Forum in Porto Alegre, trying to promote workers solidarity in a broader context. Its form of organization is innovative in many ways. It accepts the affiliation of individual workers, no matter if s/he is affiliated or not to a trade union. It accepts the affiliation of the unemployed as well. The directing board is elected by the individual affiliates, not by the unions or unions' representatives. In August 1997 it organized its first general strike in

<sup>39</sup> It must be stated that, although Jujuy has only 2% of the population, 15% of all movements have taken place there.

<sup>40</sup> For the concept of social-movement unionism, see Moody (1997).

association with dissident CGT unions and the *Corriente Clasista y Combativa*. With the stoppage of 40% of the wage earners in the country and a strong adhesion from the provinces, the CTA definitely established itself as a real alternative to the officialist (pro-*peronist*) action of the CGT.

Nonetheless, the resistance, albeit strong after the mid-1990s, would not interfere with the scope and rhythm of the changes. When the labour movement and the new social actors arose, all the important changes in the role of the state and in the regulation of the labour market were already inscribed in Argentina's constitution and its ordinary law. It cannot be said that social dialogue has played an important role in the changes. Rather, the changes were backed by a labour movement willing to acquiesce to policies aimed at ending inflation, social disorganization and disorder.

In Mexico, the most important new social movement is undoubtedly the Zapatista Army of National Liberation (*Ejército Zapatista de Liberación Nacional—EZLN*), and its political arm, the Zapatista National Liberation Front (*Frente Zapatista de Liberación Nacional – FZLN*). The Army rose in rebellion on January 1, 1994, and for more than six years, the government of Mexico has tried to combat the EZLN, using endless dialogue to mask a military occupation of the state of Chiapas and to restrict the Army's influence in the territory. Paramilitary groups were organized and paid by the local PRI leaders to combat the 'subversives.' The government's strategy has been engaged in dialogue with the Zapatistas, reach agreements, and then renege on the accords while occupying Chiapas militarily and building roads to make EZLN strongholds more accessible to military vehicles. The assassination of 45 persons (mostly women and children) in Acteal on December 22, 1997, by a paramilitary group linked to the state PRI organization has served to erode the PRI's legitimacy further (Vadi, 2001: 134). But the EZLN has a strained relationship with the PRD because it suspects that the new political parties will replace the PRI-dominated corporate system with their own corporatist systems of domination (neocorporatism) and ignore Mexico's poor majority. They see in the PRD and other political parties the same signs of personalist rule and factionalism found in the PRI (Ibid. See, also, De La Garza, 2003).

Another military-like form of social movement is the *Ejército Popular Revolucionario* (Popular Revolutionary Army – EPR), which emerged at the beginning of 1995 in the state of Guerrero after the governor, Rubén Figueroa, halted a protest demonstration by militants of the *Organización Campesina de la Sierra del Sur* (Peasant Organization of the Southern Sierra) at Aguas Buenas in 1994. Motorized police units fired on the protesters, killing 17 peasants and injuring 23 others. On the anniversary of the massacre the EPR emerged at the site of the killings and issued a manifesto calling for the overthrow of the Mexican government. The manifesto proclaimed the EPR to be part of the People's Democratic Revolutionary Party – a populist, democratic, and revolutionary organization – and declared its support for multiple forms of struggle to achieve this goal. The EPR claimed to be part of an organization of 14 separate groups and has been barely active since the elections of July, 1997.

With the revitalization of the Mexican civil society in the second half of the 1990s, amidst the new climate of a democratic transition, other social movements arose. A middle-class debtor's movement, the *Barzón* (Yoke), collabourated with the PRD and the FZLN in opposition to the PRI government. The *Barzón* represented small and medium-sized businesspeople and mortgage holders who were faced with mounting interest rates in the early 1990s and large increases in their debts after the 1995 devaluation of the Mexican currency. More than 200,000 lost their businesses in the first 18 months of the devaluation, and many of them feared poverty. They have managed to force the government to absorb

one-third of their debt, and this has undoubtedly helped to reduce the costs of the crisis, both in terms of poverty and unemployment (Ross, 1998: 260).

As can be seen from these examples, new social actors arose in the nineties in Mexico that brought civil society to the centre of the political stage, displacing the delegitimized trade-unionism, or at least its traditional, PRIist elites. The new social movements demanded democracy, and this meant deposing the PRI from government and, with it, the corporatist union structure and its political elites. This has not resulted in changes in the labour law, as already discussed, but the demand for democracy presupposes democratic labour relations, with unions freed from state control and workers free to join unions.

The Movement of the Landless Farmworkers (Movimento dos Trabalhadores Rurais Sem Terra - MST) is unquestionably the most dynamic and influential political movement in Brazil today, occupying and farming vacant land to pressure for agrarian reform. It counts on major support among the Brazilian public as well as international sympathizers. According to Hammond (1999), the MST is strong because it has a strategy which combines a moderate and legalistic image with militant mobilization of its base. The former gives it credibility in public opinion and some claim to legitimacy while the latter gives it social influence. Its slogan, 'Reforma agrária/Na lei ou na marra' ('Agrarian Reform/By law or by force'), is partly dictated by the structural situation it confronts, and partly a matter of deliberate choice. The land question is a pervasive one in Brazil, despite the industrialization and urbanization processes that left only 18% of the population in the countryside in 2000, according to census data.<sup>41</sup> But, while much of Brazilian agriculture has modernized technologically, it is still dominated by archaic property relations and supports a political system which exacerbates their effects. Land concentration has risen steadily since 1940. In 1985, 10 percent of the farms occupied 78.8 percent of the farmland. In 1995, the concentration had increased to 80 percent of the land owned by 10 percent of the farms.<sup>42</sup> The political power of landed interests and the stark conditions of rural poverty stand in the way of an inclusive democracy and a modern political system. That is why the agrarian question is enduring and complex.

The MST has maintained a high level of organization in rural areas throughout most of the country (it is active in 25 of Brazil's 27 states) and captured the attention of urban unemployed as well. Despite the country's vast size and extreme variety of rural conditions – in terms of divergent methods of production, patterns of land property and tenure, and ideological tendencies – which might produce a heterogeneous set of rural movements, MST still stands out as the most important one, irrespective of a dissident faction established in the mid-1990s. The MST's public face has three main elements: first, effective use of the existing legal system to gain advantages which the legal system, unprompted, would not provide. (Land occupations are based on a 1985 agrarian reform law which provides for the expropriation and redistribution of unproductive farmland, but the law is not enforced in the absence of direct action.) Second, an appeal to common-sense economic goals: the MST can claim that by bringing unoccupied farmland into production it reduces unemployment, by providing work conditions for large numbers of unemployed rural workers, increases the food supply, and stems the flow of urban migrants. Finally, violent and continuous repression against the MST, wins the land occupiers sympathy in public opinion.

---

<sup>41</sup> In the Northeastern Region the figures are above 35 percent in some states.

<sup>42</sup> Data adapted (after revision) from <http://www.mst.org.br/historico/congresso/congresso5.html>

The movement encourages literacy and the political education of its militants, adopting the Paulo Freire method of popular education. The MST has four educational priorities: universal literacy for adults, expanded primary and secondary education for children, technical and professional training, and developing a new pedagogical proposal for rural schools to prepare social subjects in a new development model. A model directed at agricultural skills, citizenship, and dignity – contrary to the current practice in rural public schools, which the document claims train people only for migration to the city.<sup>43</sup>

With a strong media presence, acknowledged efficacy and widespread legitimacy, the MST has reached the forefront of the social movement arena in Brazil. Invasions of land have increased year by year and reached their peak in 2003, the first year of the Lula government. And this has happened in spite of the clear support of the Lula candidacy by the movement and its expressed affinities with the Workers' Party and the CUT. MST also has direct access to the highest levels of the bureaucracy of the Ministry of Agrarian Development, in charge of the agrarian reform, and runs many of its local offices. The program Zero Hunger assisted more than 150,000 MST families in 2003, which has contributed to attracting militants to its lines. But all that notwithstanding, mobilization to invade continues (Tavares, 2003).

### ***A future for the labour movement?***

The future of the labour movement in the three countries is not clear. Each of them face a transitory junction, but each one differs in nature. Argentina's political and economic systems crumbled with the crisis of December 2001, and the country is trying to reconstruct the social fabric, the political regime and the economy all at once. In Brazil, the leftist government of the Workers' Party is promoting important changes in the legislation, and may change the union structure anew, thus redefining the very character of labour relations. In Mexico, the political regime has changed, though not dramatically, and democracy is on the fore of the debates and action of most social actors. State-capital-labour relations may also change dramatically.

In Brazil, the National Forum of Labour (Forum Nacional do Trabalho – FNT), a tripartite forum created by the new Lula government to reform the labour and union laws has significantly advanced the proposition of a new arrangement that could deeply change the union structure. CUT and Força Sindical favour the end of the compulsory union taxes and of 'unicity', with the ratification of ILO Convention 87, a project opposed by the other labour federations and also by employers associations represented in the Forum. Consensus is impossible on this particular issue, but because the federal government is determined to reform the union structure, the reform will come sooner or later. If the union taxes and the 'unicity' principle are to be abolished, then the scenario of the labour movement will be completely changed. Two parallel movements may take place. First, big firms will try to force their employees to constitute company unions. This will be opposed by central federations, existent unions and workers' autonomous organizations, but will probably thrive in the long run. Second, there will be a longer process to centralize representation of labour and capital, because thousands of small unions will disappear along with the compulsory taxes. The CUT wants to legalize individual workers' affiliation to the federations and to centralize the collective bargaining process, which may completely change the role of federations in labour relations. Today, the right to endorse contracts is exclusively of the unions.

---

<sup>43</sup> See <http://www.mst.org.br/setores/educacao/educar.html>.



Because of the enormous risks involved in deep changes in the union structure (capital associations fear the strengthening of the CUT, the CUT and other labour federation fear losing power, local unions fear extinction), it may be the case that changes will be minor, for instance regulating collective bargaining to include the central federations. In that case, the system will remain intact and unions, weak. It should be repeated that the union structure has proved to be quite flexible in the process of restructuring, and with the exception of the larger unions in selected economic sectors,<sup>44</sup> collective agreements are poor in regulating internal labour markets, leaving business to businesspeople. Most labour regulations are inscribed in the Federal Constitution and in the CLT, and this includes health and safety departments, minimum wage, regulation of dismissals, protection of particular groups of people (pregnant women, youth ready to serve the military, the handicapped), as well as duration of employment contracts.

The crisis of unionism in the 1990s has led to the explosion of demands in the labour courts. Because unions lost power and state officials were less willing to enforce the labour code, the courts have evolved as the main instrument to assure rights, denied by employers unwilling to obey the law. The reform of labour regulations that forced free unions to bargain collectively could help to reduce the role of the courts in labour relations. I will return to this in the concluding section.

In Mexico, the employers association COPARMEX at the end of the 1980s and again at the beginning of the 1990s, and the PAN (now in office with Vicente Fox) and the PRD (a more centre-leftist party) in the second half of the 1990s, all have submitted projects of reform of the labour code and of the union structure, none of them ever accepted by the Mexican congress (Bizberg, 1999: 26-8). On the other hand, the emergence of new, autonomous unions and federations in the recent process of democratic transition is capable of introducing new pressure to change union legislation. But this has not yet happened. It is true that president Fox has given signs that the new government legitimizes the UNT, the first autonomous federation to ever appear without the sponsorship of the Mexican state. The federation has been included in the social dialogue process, and it is now an official member of the table that discusses changes to the LFT (Bizberg, 2003: 43).

As already mentioned earlier, the UNT was born in 1997 as a dissident from the CT. Its origins stem from the end of the 1980s, when unions of civil servants created the FESEBS (Federation of Unions of Public Goods and Services) in response to the Economic Solidarity Pact (discussed below) proposed by the De la Madrid government. After the crisis of 1995, the Zedillo government proposed the revision of the pension system, which was backed by the CT but opposed by the dissidents, whom created a forum to discuss wages and the modernization of the Mexican firms. The forum met twice in 1995. In 1997, after the death of Fidel Velázquez, the long-time head of the CTM, and after the loss of the majority of seats in parliament by the PRI, 17 out of 26 organizations of the forum decided to create a new central federation. From the beginning it was headed by three presidents (from the unions of social security workers, telephone operators and workers of the Universidad Nacional Autónoma de México – UNAM) and had dozens of vice-presidents, allegedly to avoid personalism and authoritarianism. Since its creation, the UNT, born as a federation of public sector unions, has gained the adhesion of 160 peasants' and workers' organizations, and its affiliation may equal 1.5 million workers. It has a dual approach to the political system, combining the public denunciation of policies

---

<sup>44</sup> Namely finance, metalworking, petroleum, chemicals and education.

contrary to the interest of workers – such as the independent labour movement used to do – and negotiating with high level state officials – as the corporatist unionism does (De la Garza, 2003: 366). The UNT has not confronted the traditional unionism or forced the democratization of the union structure. For this reason, some analysts do not see it as a renewing force within Mexican unionism (for instance, Vadi, 2001).

The dilemmas in the Mexican case are very similar to those in Brazil, perhaps stronger in at least one dimension. The Mexican political regime is crumbling to pieces. The association between the PRI and the labour movement that governed the country for more than seventy years is under severe stress. But tradition matters, and to reform long lasting institutions is not an easy task.<sup>45</sup> The PRI is still alive, so is the CTM, the CT and the entire official union structure and all remain supportive of the PRI leadership. The CTM is strongly resistant to change and opposes any measure that would free unions from state control, because this guarantees access to money and political power. The CT still harbours 60% of the union affiliates in the country. It is hard to forecast what will result from the efforts of reform, but as in Brazil, one should expect minor changes, simply because the traditional elites are still powerful, and benefit from the status quo. Decentralized bargaining must prevail, as well as closed shop guarantees and monopoly of representation by the majoritarian union.

In Argentina, changes to the labour law are probably consolidated, and the trends are quite visible in the tendency towards decentralized, firm-level collective bargaining and the erosion of the very pillars of the traditional pattern of state-labour-capital relations. True, Peronism is still strong in the labour movement, and will remain an important ally to Peronist governments. But the ‘unicity’ is gone for good, and so is the exclusive representation by economic sector. But new social actors have emerged, within and outside the labour movement. The most important is clearly the CTA, proposing an autonomous union action vis-à-vis the state, the political parties and the employers. Enrolling other social forces beyond workers (unemployed, piqueteros, retired, NGOs), it is supported by intellectuals, professionals and teachers and has enlarged the agenda of the labour movement to include community issues and themes related to the territory and local well-being. The trajectory of the CTA would favourably bring it to the centre of the social arena when the crisis of 2001 exploded and the new social movements (*piqueteros*, *fábricas recuperadas*) found in it an important ally. Social conflict has migrated from wages to social issues (Bensusán, 2003).

In all three countries affiliation is falling, due to structural as well as political reasons. The share of the workforce that can potentially be unionized is decreasing sharply because of the fragmentation of the labour market, the increase in micro and small firms, the growth of the informal sector and increased unemployment. If this is true, one cannot forecast a single, convergent pattern of union structure in the three countries, because of the blatant divergences in the economic structure, in the history of institutional consolidation of labour relations, in the restructuring process, and in the political regimes.

---

<sup>45</sup> During the process of privatization of state-owned enterprises, analysts and politicians forecasted the possible democratization of the labour relations’ system in Mexico. But Clifton (2000) demonstrates that the privatization of the Telmex has generated new resources that were channeled to smooth corporatist relations and that the new-unionism emerging from the telephone workers’ union did not represent a departure from, but was actually a culmination of, traditional state-labour relations in Mexico. This is only an example of how the system can resist change even after major economic restructuring.

Even within each country the enormous structural differences between manufacturing and services, agriculture and commerce recommend parsimony in fortune telling.

In any event, it is possible to comparatively draw at least three scenarios for the future of the labour movements in the three countries, based on the actual evolvement in recent years. The first scenario would be one of the persistence of the corporatist or quasi-corporatist (depending on the country) union structure. In Mexico, the prevailing system has proved to be quite resistant to change, regardless of the emergence of new central federations and social actors. The leaders in control of the reform have vested interests in the maintenance of the status quo, that favours them, and this could halt major changes. In Brazil and Argentina, where the quasi-corporatist structure is based on the 'unicity' and the 'personeria gremial', this scenario is less probable. Persistence is not in the interest of important actors in the political system (and the central players are the presidents in office in both countries) and in the union market, like the CUT in Brazil and the CTA, the MTA and the CGT Dissidente in Argentina. The second scenario would be a hybrid, more or less transitory structure, where the corporatist and quasi corporatist structures and leaderships are not wiped out at once, but are given time to adapt to a new situation where freedom of association prevails. This scenario for transition, if instituted by the reforms currently in discussion in all three countries, could help unionism bridge the political and economic transitions in Mexico and Argentina, but it is the most probable for Brazil. The third scenario would be one of freedom of association according to the ILO Conventions and Recommendations. This would probably consolidate decentralized collective bargaining in Argentina and Mexico, and force some centralization of the representation in Brazil. It could also help to consolidate representative and autonomous unionism in Brazil and Mexico. But this is the less probable scenario, for it would represent a complete change in the patterns of labour relations, neglecting sixty or seventy years of industrial relations history.

None of these scenarios would assure the representation of large parts of the working population in the three countries, namely, the informal wage earners, self-employed and own account workers. Labour movements in Argentina, Brazil and Mexico have traditionally represented the interests of formal employees, those with a labour contract protected by law and entitled to rights and monitored by the state. The unemployed and the informal sector workers have never been of serious concern. The road to democratic, autonomous and purposive labour relations, amenable to social dialogue, should take this into account, and I will return to the issue in the third and last section of this study.

### ***Social Dialogue***

The weakening of the actors from the labour side had important impacts on the social dialogue processes related to employment creation and economic restructuring.<sup>46</sup> But here, again, the differences between the three countries are very important. Mexico has a strong tradition of social dialogue, despite the fact that the organizations of labour and capital are heteronymous vis-à-vis the State. In Argentina, social dialogue was the very base of Perón's power, but the military or conservative governments repressed workers' movements and legislated unilaterally. In recent years, Peronism reinstated social dialogue, but without clear results. In Brazil, social consultation has not played a great role due to the

---

<sup>46</sup> As stated in the introduction, social dialogue will refer to broader political concertation between labour, capital and the state devoted to major economic issues, such as development, investments and employment creation.

history of authoritarian rule. Successive attempts in the mid-80s within the process of transition to democracy failed, frustrated by the incompatibility of workers' demands and the government's stabilization and economic programs. In the 1990s, there were some important experiences, but most of them local or restricted in scope. The Lula government has initiated a more systematic social dialogue process, but its results are still to be seen.

In Mexico,<sup>47</sup> since 1987, a series of social-economic pacts brought together the three agents of industrial relations, first to control inflation, but afterwards to regulate growth and related issues, including employment creation, labour relations and working culture. The Economic Solidarity Pact (Pacto de Solidaridad Económica – PSE) was the first attempt, followed in 1988 by the Stability and Economic Growth Pact (Pacto de Estabilidad y Crecimiento Económico – PECE), which would be revised many times until 1994 and then renamed the Pact for Well-being, Stability and Growth (Pacto para el Bienestar, la Estabilidad y el Crecimiento - PABEC). The crisis of 1994 led the State to revise it again, and the pacts have had many names since then until 2000, but they have lost legitimacy and compliance from the original social actors. Other related pacts occurred in parallel.

The PSE joined employers, workers and peasants' associations inside the PRI to design income, fiscal and monetary policies to control inflation. The PSE was signed three days before the eruption of a general strike called by the CTM without the support of the other official unions. The PSE should have been a temporary agreement, but was renewed in 1988, as just mentioned, with a broader aim. This time, the pact was to maneuver concertedly the movements of the economy and evaluate its main indicators so as to respond and intervene when necessary.

The pacts were quite effective in controlling inflation in the 1980's. Inflation rates fell from 13% in December 1987 to 1.2% a month in the second half of 1988. Considering the first four years of the concertation, inflation fell from 160% to 19% a year, without major recession.<sup>48</sup> Economic growth was another important result of the pacts. The economy grew at a mean rate around 4% until 1994. Nonetheless, real minimum salaries were always kept away from the negotiations and targets, and an explicit policy of wage contraction was adopted during the first period discussed, allegedly to foster employment creation. If we take 1989-1999 as the reference time span, minimum wages fell 42% and contractual wages, 29% (Bensusán, 2003: 11). Mean real wages in manufacturing grew from 1991 to 1994, falling again, despite the 1996's New Labour Culture Agreement, which set a series of guidelines to increase salaries in line with increases in productivity. In none of these pacts were employment creation strategies clearly stated or targeted. Rather, the main issues were productivity, inflation and growth.

In parallel with the growth and productivity pacts, other agreements also took place in Mexico. In 1992 the National Agreement for the Raising of Productivity and Quality (ANEPyC) was instrumental in controlling inflation and restructuring the economy. The main actors were the CTM and the employers' association COPARMEX (National Employers' Confederation of the Mexican Republic), along with the State. But the pact, which originated in State bureaucracies, offered imprecise and general guidelines that did not obligate the parties to create an effective process of organizational restructuring, technological improvement, human resources or labour relations, despite its formal

---

<sup>47</sup> Most of the information gathered here is based on Bensusán (2003).

<sup>48</sup> See Clavijo y Valdivieso (2000), Table A35.

innovativeness, in the sense that productive gains were not thought to result from the restriction of labour rights or from the flexibilization of labour regulations (Bensusán, 2003). Though the pact allowed for the revision of collective agreements connecting wages to productivity gains, unions under the CTM could not secure this, in part because they lacked effective power to negotiate better conditions. In 1995 only 13.7 per cent of revisions of contractual wages resulted in increases linked to productivity, and the figure fell to less than 7 per cent in 1997 (De La Garza, 2000: 199).

Another important experience has been the pact called “New Labour Culture” (Nueva Cultura Laboral), issued in July 1995 by the CTM and COPARMEX in response to a legislative initiative of the PAN (Party of National Action) that intended to reform the corporative union structure and to raise labour costs via improvement of some social benefits. In ten statements, employers and workers affirm the ethical and transcendental value of work, recognize it as a source of rights and obligations, as well as state that the efforts to ensure better benefits to workers have to take the economic situation of firms and the country into account. The ninth principle says that the new labour culture must be based on social concertation and dialogue and in the unity of efforts from employers and workers organizations.<sup>49</sup> But again the pact did not result in any institutional change that would favour the modernization, cooperation or dialogue between the parties in labour relations. The union structure remained intact, with its heteronymous, weak unions incapable of assuming a new role in the humanized and responsible firms that the pact intended to establish for the country. The changes were to occur in the cultural sphere, in the predisposition of capital and labour leaders, now guided by the idea of cooperation for the well-being of all. As a consequence, the results of the pact are not particularly visible. Perhaps the most important of them has been the agreement to give more transparency to the information about unions and union density processed by the Secretary of Labour (STyPS), an important instrument of control for the PRI over the labour movement (Bensusán, 2000; Bizberg, 2001).

Despite the many attempts to discuss policy decisions, and considering their success in controlling inflation and wages as well as overcoming cyclical crisis, social dialogue in Mexico never targeted employment creation directly, or when it did, it was in a rhetorical fashion, that is, without mechanisms of surveillance or tracking of the results.

In Argentina, with the re-democratization of 1983, the idea of a social and economic pact to overcome the economic crisis inherited from the military regime has, at times, dominated the scene. The most important concertation process under the Radical’s government has been the Social and Economic Conference (Conferencia Económico y Social – CES). Announced by President Alfonsín in 1984, the CES was designed to provide a framework in which representatives of key peak associations of capital and labour (the Argentine Industrial Union – UIA, and the CGT) were joined by representatives of state bureaucracies of the Ministry of Economy and Labour, to address a large range of macroeconomic and social issues. The idea was to strengthen sectoral articulations and create integrative mechanisms for economic branches so as to foster economic growth and employment creation. Concurrently, a National Minimum Wage Council was established as a tripartite committee to formulate wage policies which

---

<sup>49</sup> The principles can be found in [http://www.stps.gob.mx/cultura\\_laboural/cult\\_lab.html](http://www.stps.gob.mx/cultura_laboural/cult_lab.html).

continued to function, with episodic defections from labour and capital associations, throughout Alfonsín's term (Buchanan, 1995: 143 and ff.).<sup>50</sup>

Gaudio and Thompson (1990) argue that the concertation initiatives always emanated from the Alfonsín government, and the invitation to social dialogue would not result from a genuine strategy of concertation, but function as a mechanism to legitimate public policies unilaterally designed by state bureaucracies. Buchanan (ibid) also notes that labour's ability to negotiate was limited by the economic crisis, which prompted the government to adopt a *dirigiste* approach to economic policy, which excluded issues like social security, income, vocational training, public employment policy, investments' policies and other issues from the concertation agenda. Besides, the relation between the Radical government and the Peronist CGT and its many factions was never an easy one. Alfonsín tried to divide the CGT and to attract some of its factions for support, but the relations were never stable (McGuire, 1990). After several walkouts, the CGT formally abandoned the tripartite dialogue in June 1986, after another series of government-ordered salary readjustments.

As we will see for the case of Brazil, in Argentina under Alfonsín's government, instead of engaging in cooperative collective action based on the mutual adoption of second-best sectoral strategies by labour and capital, reinforced by efficient enforcement by the state – that is to say, the typical concertation framework of some European countries – a maximalist logic pit labour and capital against the state's project of structural adjustment, based on price and wage restraint. High inflation and economic crisis favoured zero-sum, all-or-nothing games both in labour market negotiations and in state level concertation.

In the 1990s, the idea of a broader social dialogue was set aside due to the hegemony of the state-led Convertibility Plan. As already mentioned, the majority of the CGT and of most employers' associations supported Menem and his economic policies without formal consultation. The first attempt at social dialogue would only occur in 1994, with the Agreement for the Employment, the Productivity and the Social Equity (Acuerdo Marco para el Empleo, la Productividad y la Equidad Social). The agreement was an initiative of the Menem government to negotiate issues such as employment creation, right to information granted to unions, solution of individual conflicts, health and safety at work, professional training, revision of the bankruptcy legislation and reform of labour relations. The agreement brought together the CGT and all major employment associations. The Ministry of Labour was be in charge of the organization and follow-up of the entire process. In most cases, the consensus issues were never put into practice. In other cases – such as the various sectoral agreements on productivity and training, on local councils of professional training, as well as the efforts of some tripartite tables under the Sub-Group 10 of Mercosur to set common rules for the region – results were experimental and never gained a systemic character, in part because the Menem administration failed to support the agreements (Margheritis, 1999).

In 1997 the CGT signed another agreement with the government, the Coincidences Act (Acta de Coincidencias), aiming at a consensual reform of the labour code to create new, more flexible forms of labour market regulations to combat unemployment (Portela, 2001). The Act covered issues such as simplification of the types of contract, promotion of collective bargaining, consolidation of a solidarity health system, generalization of worker

---

<sup>50</sup> See also Gaudio and Thompson (1990).

registration analysis of the Labour Contract Law, participation in professional training and other issues. Initially, employers associations had participated in the discussions, but left the table, allegedly, because the contractual system would not actually be touched. The dialogue resulted neither in changes in the labour law nor in employment creation, and was discontinued that same year.

The crisis of December 2001 brought social dialogue to the forefront once again. The Argentine Dialogue (Diálogo Argentino) of 2002 provoked a cascade effect which fertilized many decentralized attempts of social concertation. The Dialogue was again initiated by the federal government, this time with the support of the Catholic Church and technical assistance from the UNDP, and joined labour and capital associations as well as NGOs, social movements, political parties, religious groups of all kinds and other social actors. Sectoral round tables were created, and the actors in the 'socio-labour productive' table agreed on the urgent creation of a Social and Economic Council to advise the central government. The Council's goal was the elaboration of social policies to soften the impacts of the economic crisis. Consensus was reached on important issues such as the necessity of structural reforms in the social policies based on principles of universality, transparency and social control. At the same time, the Program for the Unemployed Heads of Households expressly incorporated the reasoning of the Dialogue tables in the elaboration of the minimum income's policy to the families of the unemployed. National Council and Provincial Advisory Councils were created to control and exert social surveillance over the program.

Also, the Dialogue Table for Decent Work (Mesa de Diálogo para el Trabajo Decente), created by the Ministry of Labour and joined by representatives from labour and capital federations, including the Federal Council of Labour, is now discussing issues such as income, working hours, non-registered employment and job security, beyond the distributive issues that led to its institution.

The short term results of these experiments are well recognized, especially the aid given to help the unemployed. But the long run results are still to be seen. It is hard to attribute the success of the Argentine economy in 2003 to social dialogue alone. The concertation process had to cope with many representation problems. Union leaders were de-legitimized during the nineties, as we have seen. The social basis of many social movements was never particularly clear either. As a consequence, not all the actors were willing to mutually recognize the other parties' demands. Most importantly, the Dialogue was lead by a transition government (Eduardo Duhalde) which had to face its own concertation agenda with the parliament and the federal bureaucracy. But social dialogue has certainly helped to reconstruct the social fabric of the country and to legitimize the transition process to a Peronist, but anti-Menem government.<sup>51</sup>

In Brazil, social dialogue has never played an important role either in labour relations or in broader macroeconomic issues, with few, albeit important exceptions. The transition to democracy in the 1980s would favour some experiments of social consultation, but as in Argentina, all the pacts attempted by the government of the New Republic (1985-1989) were called either before the implementation of unilaterally

---

<sup>51</sup> Most of the information on recent social dialogue experiments in Argentina was borrowed from the preliminary Argentine report to the XII Encuentro de Ex-Becarios de Bolonia-Castilla La Mancha-Turin. I thank Marta Novick for sending me the report, and Beatriz Cappelletti for allowing me to use the preliminary information.

designed economic adjustment plans, or after their demise. All the attempts at social consultation would fail to address the main issue of that decade, inflation.

The first attempt occurred in the beginning of 1986, inspired by the experience of the successful Moncloa Pacts that assured the democratic transition in Spain. Organizations of capital and labour joined the federal government and started negotiations to adopt wage and price controls aiming at reducing inflation as well as discussing reform of the state and of the economy. But the attempt was derailed by the Cruzado Plan before its third meeting. The Cruzado Plan was based on the Argentine experience (the Austral Plan) of heterodox economic shock which froze wages and prices; the labour movement left the negotiations, calling a (frustrated) general strike against the plan.

In this and in the other pacts to come, the main problem was the representativeness of the actors involved. The CUT, the leftist central federation founded in 1983, had in its statutes an explicit clause against social concertation. It would take part in one first meeting, present its list of demands (against the IMF, agrarian reform under the control of the workers, convocation of a Constituent National Assembly, direct elections for the Presidency of the Republic and other broader political demands) and then withdraw from the dialogue tables. As the CUT was the most important and representative federation, without them no social pact could be possible. Although the CGT<sup>52</sup> would always participate in the attempts to social dialogue, its representativeness was not clear. They claimed to represent 10 million workers but they had, in 1989, only 300 unions affiliated to it (Cardoso, 1999: cha 2). The same can be said about employers' associations. The Federation of the Industries of the State of São Paulo (Federação das Indústrias do Estado de São Paulo - FIESP) had important intervention capacity in the public debate via mass media, but limited ability to force its constituency to assume the burdens of the social pacts, when negotiating economic restraint or price freezing. During the New Republic, three social pacts were called for by the federal government, and the three would bluntly fail.

In the beginning of the 1990s, president Collor tried another social pact when his plan of economic adjustment failed to tame inflation. However, disputes within the labour movement opposing the CUT and the newly born Força Sindical coupled with the refusal of some employers' associations to take part in negotiations, jeopardized the endeavour. In 1992 the metalworkers' union of the ABC Region, in the metropolitan area of São Paulo, proposed the creation of a sectoral chamber joining employers, workers representatives and the state to discuss and formulate sectoral policies for the auto-industry. The then-president of the workers' union had visited Detroit and saw the social disaster that the crisis of the 1980s had provoked in that city. To avoid the same fate for his region, he proposed the chamber, reluctantly accepted by employers at first, but later joined by all the associations of car assemblers and auto-parts producers when the government promised to reduce taxes on automobiles and parts. The chamber met until the end of 1994 and was able to stop the crisis in the sector, to increase the internal market by more than 60% via price cuts, and to save the jobs of more than 100,000 workers in the field. Job security was one main issue negotiated with workers, assured in the sector as a whole but not necessarily in each particular firm (Cardoso and Comin, 1995). Other chambers were formed in the same

---

<sup>52</sup> In fact, in 1983 the CUT was founded as a 'new unionist' central federation, combating the union structure and the labour code. The leaders of the old union structure founded the CONCLAT (Conselho Nacional da Classe Trabalhadora, later renamed Confederação), which would become the CGT in 1987. For an in depth analysis of the unionism in the eighties, see Cardoso (1999a).



period in sectors such as textiles, ship-building and chemicals, but with modest results (Guimarães, 1995). The chambers succeeded where workers' unions were strong and the state had strong intervening power via tax reductions, thus attracting employers' associations. Ship-building had the best results besides the auto industry.

The most important social dialogue experience involving employment creation in the country has probably been the Regional Chamber of the Greater ABC Region. An initiative of the government of the State of São Paulo, the chamber would join the mayors of the four major industrial cities in the metropolitan area of São Paulo – Santo André, São Bernardo do Campo, São Caetano do Sul and Diadema – at a time of crisis after the neoliberal policies and the 'competitive shock' of the economic adjustment plan. The local community joined in a program of regional development involving infrastructure renewal, redefinition of the commodity and value chains including more attention to small and medium firms, training of dismissed workers, attraction of new investments to the brownfield area and other issues (Leite, 2003: 184 and ff.). Up until 2001, four annual meetings had taken place, resulting in the production of diagnostics of the problems and definition of public policies in strategic areas. Organized in working groups dedicated to different production chains (auto-industry, petrochemicals, energy etc.), the chamber enrolled associations of employers and workers as well as NGOs and politicians of parliaments in the three levels of government. It is hard to point out the specific impact of the chamber in employment creation, as it was designed to propose systemic interventions in many areas, from water resources to transports and energy. Nobody denies, however, the symbolic and economic impacts of the chamber in the redefinition of the vocation of the ABC Region in favour of small businesses, services and high technology firms. The policies were important and timely, as unemployment reached heights of 25 per cent in the 1990s.

The Cardoso government discontinued the sectoral chambers in 1995, and other tripartite agencies within the state bureaucracies, such as the commissions of surveillance of social security funds. Only the commission of the Workers' Support Fund (Fundo de Amparo ao Trabalhador – FAT)<sup>53</sup> has remained tripartite, with representatives of workers' and employers' central federations joining officials of the Ministry of Labour. Within the FAT Committee, employment policies were designed and implemented based on the standard World Bank diagnostics that in developing countries attention should be redirected to small and medium firms and to reskilling of workers. The FAT would finance activities of the Brazilian Service of Support to Micro and Small Firms (Serviço Brasileiro de Apoio às Micro e Pequenas Empresas – SEBRAE), which advised would-be entrepreneurs and had many projects to stimulate cooperatives of producers, 'incubate' firms, etc. It would also deliver fairly high amounts of money to workers' central federations to create their own centres of re-skilling. The CUT alone received close to 50 million Reais (almost US\$17 million) for its program of training. The entire PLANFOR (National Plan of Professional Qualification) would mobilize more than one billion Reais of the FAT and re-skill 12 million workers (Lemos, 2003). Employers' organizations, such as the National Service of Industry (Serviço Nacional da Indústria – SENAI) and the National Service of Commerce (Serviço Nacional do Comércio – SENAC) also participated in the global effort. The impacts of the PLANFOR in the reduction of unemployment is still under debate, but evaluations of its efficacy in Rio de Janeiro

---

<sup>53</sup> The FAT was instituted by the Constitution of 1988 and is composed of contributions from employers. It finances unemployment insurance and also special programs for the interest of workers, such as reskilling.

showed that 30% of the trainees had a job before the training, rising to 50% afterwards. Of the trainees that had a job from 1997 to 2000, more than 70% attributed their continuation with their current job to the training program (Lemos, 2003: tbs. 7 and 9).

The Lula government brought social dialogue to the centre of the political arena again, with the institution of many councils in support of public policies, the most important of which was the National Council of Economic Development (Conselho Nacional de Desenvolvimento Econômico). This council is a forum of debate between representatives of civil society (the Catholic Church, NGOs, actors, intellectuals, employers, representatives of employers' associations, and workers representing the central federations). The Council was intended to be responsible for the discussion of development strategies, but it spent its first year consumed by the federal agenda, that is, the reforms of the social security and of the tax systems. The Council discussed the labour reform, but a new tripartite forum has been created solely for that purpose, the National Forum of Labour (Forum Nacional do Trabalho - FNT). This new forum, the FNT, should produce a project for reform of the union structure and the labour code by the end of February 2004. Because the National Council lost some of its previous prerogatives, some members left the discussion tables<sup>54</sup>.

The FNT has gained momentum, but its activities are still in process and no official documents are yet available. According to the president of the National Confederation of Commerce (a leading employers' association), the role of the council is to create "a modern union structure that will simplify and make workers' social rights more efficient, vis-à-vis the stimulus to the productive investments and the full employment of the workforce in the highest interests of the nation".<sup>55</sup> It is hard to tell what will result from the discussions, but the ILO Conventions are the guiding lines for both the CUT and Força Sindical, but not for the employers associations, such as the FIESP and the CNI. These groups oppose ILO Convention 87 on Freedom of Association and others related to plant level organization of workers. At the legislative level, the workers' federations intend to strengthen centralized collective bargaining as opposed to firm level bargaining, which is favoured by employers. Employers also want to make agreements valued irrespective of the law, that is to say, resign the non-renouncable character of the labour law, a position workers do not accept. The suggestions of reform may refer to minimum consensus only, which will probably transfer the burden of reform to the government which is now treated as a priority by the Lula administration.

Another important forum is the National Council of Food Security (Conselho Nacional de Segurança Alimentar – CONSEA), which advises the government in the implementation of the Zero Hunger Program. It is composed of 38 representatives of civil society, 13 ministers and 11 external observers, and is a region of open conflicts between religious groups and ministry officials.

The Lula experiment with advisory councils has inaugurated a new form of policy making. On the one hand, it helped to legitimize policies otherwise difficult to approve in Congress, such as the social security reform. And some councils have operated as true policy making mechanisms, or at least this is what is expected to result from the FNT. On the other hand, conflicts arise that cannot be resolved at the council level, because the

---

<sup>54</sup> Paulo Pereira da Silva, president of Força Sindical and some employers decided to leave amidst the discussion of the reforms.

<sup>55</sup> Newspaper *Jornal do Comércio*, Aug. 09, 2003, page A-17.

decisions are not binding, since the final shape of the policies depends on Congress. Up to now, the initiative of the substantive design of the reforms is basically in the Executive's hands, and social consultation has played an important, but symbolic role.

As can be seen, in Argentina and Brazil social dialogue has only been a marginal policy making mechanism during economic restructuring, despite the history of state corporatism in Brazil and of strong relations between Peronism and workers' and employers' associations in Argentina. The military regimes of the sixties and seventies have effectively broken the backbones of the traditional, leftist unionism and restricted the role of employers associations as pressure groups, opting for technocratic, state-centred policy making. The crisis of the 1980's forced the democratic governments to further restrict the role of social partners in strategic junctures of the administration of the economic crisis. Social consultation had a rhetorical character most of the time, a way of legitimizing the failed, state-designed economic plans. The 1990s ushered in a neo-liberal, unilateral policy making, most of which was supported by civil society and opposed by labour in Brazil from the beginning, and in Argentina after the creation of the CTA. However, the experiences of the ABC Region and of the recent Diálogo in Argentina show that social consultation has changed its character to include other emergent actors of civil society beyond the traditional representatives of labour and capital. Social movements, NGO's, religious groups, academic associations, professional associations and other collective identities have proved to be important partners in the discussion of public policies related to regional, communitarian problems, including employment creation. The de-centralized character of the experiments must also be underlined. It helps the consolidation of institutional networks and social capital when local development is at risk.

On the other hand, the Mexican experience shows that social dialogue is no panacea, especially when the partners are not autonomous from the state. The economic restructuring plans of the 1980s and 1990s were discussed with labour and capital representatives, but labour's influence in the substance of the policies was virtually nil in most cases. The social pacts resulting from the many concertation experiments would never set clear targets except for inflation and minimum wages, that is to say, restraint of labour demands in favour of stable currency, productivity and capital accumulation. This permitted economic restructuring without major changes in the labour legislation and without addressing the problem of employment creation. In formal terms, the restructuring preserved the structure of the labour rights and of the labour market regulations.

### **III. Labour market regulations: changes and persistence**

It is an irresolute debate whether or not labour market regulations favour employment creation and labour market efficiency, their impacts on income distribution is well recognized and documented. In a survey of the studies on OECD countries, compared with the available empirical evidence, Bertola, Boeri and Cazes (1999: 30) argue that “the effects of the [employment protection regulations], while fairly clear from a theoretical standpoint, are difficult to study in practice because of the elusive and complex nature of available information”. Squire and Suthiwart-Narueput (1997: 119) note that there is “limited evidence regarding the distortionary costs of labour market regulations, [and] there may exist natural limits to the efficiency losses engendered by such regulations (...). If the distortionary costs of regulations are not rendered insignificant (...), then the returns to non-compliance will be high and, other things being equal, employers will either evade or avoid the regulations, thereby minimizing their impact on efficiency”. In the opposite direction, Marques and Pagés (1998: 2) note that “For the [Latin American] labour market as a whole, there is robust evidence that the protection of employment stability is associated with a higher incidence of self-employment, and somewhat weaker evidence that it is associated with lower employment rates”. In a more recent paper, Heckman and Pagés (2000: 28) conclude that “job security regulations have a substantial impact on employment and turnover rates both in Latin America and in OECD countries and thus substantially affect the efficiency of the labour market”.

The bibliography in both directions abounds, and definitive empirical evidence on the actual impacts of labour regulations is still to be produced. However, economic reforms in Latin America were all accompanied by the certainty that labour regulations produce unemployment, inefficiency and informality, and that the labour codes of most countries should face major reforms in order to lessen the impact of economic restructuring. In spite of that, labour market regulations have not changed as much as one would expect in Mexico, given the combination of the hegemonic discourse of flexibilization with the drawbacks in the labour movement’s action and legitimacy. Changes in Argentina have been quite remarkable, with the support of workers representatives. In Brazil, changes were important, neglecting the opposition of the labour movement. And very unexpectedly from the point of view of those favouring flexible measures, Mexico has always had the lower unemployment rates, followed by Brazil and only then by Argentina.

Analyzing the Mexican labour market, the Organization for Economic Cooperation and Development (OECD) proudly stressed the triumph of market forces over the capacity of unions to influence the decline in real salaries. As an indicator, the OECD compares the differences in wages of union and non-union workers. At the beginning of the 1980’s, union workers’ salaries were 40% higher than those of non-union members. By 1992 this gap had disappeared for all practical purposes: non-union salaries were 97% of those of union’s (OECD, 1997: 89). The labour code (LFT) is still intact, and the changes in legislation were restricted to the social security system. Changes were made with respect to the length of contribution (from 10 to 24 years) prior to retirement and the creation of a parallel, private pension system. Nevertheless, Mexican labour regulations proved very flexible in response to shocks. By the same token, in Brazil the labour law did not change importantly until 1998, but as already mentioned, flexibility is a marked feature of Brazilian labour relations, and industrial restructuring occurred without major resistance from the economic agents.

In Argentina, the changes in the labour relations’ system (LRS) began in 1990, with the law of strike for the public services, which would facilitate the process of privatization

by restricting the strike activities of affected workers. But the major changes occurred after 1991, first with the National Law of Employment and, after that, with the many related instruments affecting social security, wages, labour contracts, bankruptcy, and small and medium firms. The three phases of labour reform can be distinguished. First, from 1991 to 1996, labour contracts were de-regulated, with the adoption of temporary contracts, the reduction of labour rights and regulations of job security, and the negotiation of salaries connected to productivity gains. The National Employment Law's primary issue was the extension of formal labour contracts to the informal labour market. However the net result was the establishment of four new types of 'atypical' contracts, with reduced labour rights and firing costs. It is worth noticing that the NEL determined that the minimum wage should be decided in a tripartite instance, the National Council of Employment, as part of broader policies of employment creation and stimulus to economic development.

In the same period, the requisites to access work-related accident insurance were enlarged and the pension system was revised, introducing the possibility of individual contribution to a private insurance fund for higher salaries and restricting the public system to smaller pensions. Employers' contributions to the system were also reduced in specific regions and economic activities to stimulate investment.

In 1995, with unemployment peaking, the Law of Employment Promotion (Ley de Fomento de Empleo) de-regulated labour contracts further, introducing three new forms of contracts, all with few or no social contributions. In the same year, the flexible measures were extended to small and medium firms, stimulating collective bargaining at the firm level and reducing labour costs. Negotiation was also favoured by the Conciliation Law, which forced private conciliation before recourse to the labour courts.

In the second period, from 1998 to 2001, new regulations were introduced to reform the NEL of 1991 and the LEF of 1995. The system of compensations for unfair dismissal was simplified, the 'previous warning' pay before a dismissal was reduced from 30 to 15 days, and the employment of youth was stimulated via 'apprenticeship contracts'. In terms of collective bargaining, the monopoly of representation granted to unions with 'personeria gremial' was maintained, but first and second-degree institutions (unions and federations) could delegate negotiation power to local representatives, consecrating the decentralized collective bargaining process. Another important change in the bargaining system was the law that granted local agreements prevalence over the law and broader collective conventions negotiated by unions or federations on issues such as working hours and vacations.

The third period runs from December 2001 to the present, and it is marked by social concertation and social pacts, as mentioned in the previous section. But the flexibility measures have not yet been touched.

The changes in the labour market regulations and in the system of collective bargaining were very profound in Argentina. They combined, negotiated measures with state-sponsored legislation to create a very flexible labour market, with reduced social protection through a myriad of forms of labour contracts. The changes took place without major opposition from the labour movement and with overt support from employers associations. But unemployment rates grew steadily nonetheless, from 6% in 1990 to 16% in 1995 and to 21% in 2002. Urban youth unemployment grew from 22% in 1990 to 46% in 1995, fell to 36% in 1999 only to grow again to 46% in 2002<sup>56</sup>.

---

<sup>56</sup> Figures can be found in OIT (2002).

In Brazil the changes were also important, though not as extensive as in Argentina. The first major change was the institution of the Law of Cooperatives, which permitted the creation of cooperatives of workers to deliver services to firms without the constitution of a work contract (with social and labour rights). Firms do not contract workers, but their services, as in contracts of rent. Salaries are normally paid below the legal minimum, and no unions are involved. The second major change has been the de-indexing of salaries and inflation, with the institution of free negotiation of wages after almost 30 years of official wage policies. A new law also suspended the clauses of the collective 'dissidios' (legal sentences in judicial arbitrations) if claimed by one party to superior instances of the labour courts.

At the end of 1994 another measure instituted workers' participation in profits (already discussed in the section on collective bargaining), which flexibilized workers' pay. In 1995 the Cardoso administration denounced ILO Convention 158, which restricts dismissals, preparing the field for the reform of the state and for the privatization of state-owned enterprises. In 1997 a Plan of Voluntary Layoff of public servants was made law. In 1998 another law instituted fixed term contracts with reduced social rights. Firms with less than 50 employees could hire up to 50% of workers under the new legislation (25% in the case of firms with 200 workers or more). Responding to pressures from the labour movement, the law included the obligation of collective bargaining in the hiring process. The federal government expected that the new legislation would create new jobs, formalize informal labour contracts and create labour market efficiency, especially for the micro and small firms. But fixed term contracts did not thrive. In December, 2001, only 3.4% of the formal work contracts were at fixed term, most of which were in the Northeast Region<sup>57</sup>.

The year 1998 was one of major reforms. The 'bank of hours' was instituted then, flexibilizing working hours. Allegedly created to avoid unemployment during economic crisis, the law actually permits the suppression of the payment of overtime (50% above the legal working-hour), giving employers more control over the flux of work in production. Part-time work contracts were legalized in the same year, permitting working hours up to 25 hours per week with lessened labour rights. Temporary suspension of labour contracts was also allowed in 1998. Workers can have their contracts suspended for a maximum of one year, and they receive a sponsorship equivalent to unemployment benefits to participate in programs of re-skilling; at the end of which, the employer can either hire her back or dismiss her. It is worth noting that the original project established a maximum of five months of suspension. The extension to one year occurred in response to a demand from the labour movement during the crisis of 1999.

The system of collective bargaining has not faced major changes, although in one respect the changes are quite remarkable. I refer to the role of the Labour Judicial System in labour relations. In 1999 three main tools were approved by the National Congress that substantially redefined the role of the labour courts in conflict resolution and arbitration. First, the so called 'classist judges' were eliminated from the Conciliation Courts (first level of the System). These judges used to be representatives from labour and capital, nominated through political arrangements and without professional expertise, to assure tripartite representation in courts. They were an inheritance from the Vargas corporatist era. Their elimination was long demanded by judges and the renewed labour movement,

---

<sup>57</sup> Data calculated directly from the RAIS (Annual Report of Social Information), a file of administrative records of the Ministry of Labour.

but resisted by employers associations and the corporatist unions. Labour courts are now strictly professional.

The second law created the Previous Commissions of Conciliation and Arbitration, a bipartite, voluntary instrument to process individual grievances at the workplace level in order to avoid their access to labour courts, saturated by 2 million individual demands per year. The commissions can encompass groups of firms or even different categories of workers and, hence, different unions. They do not impact collective bargaining directly, because they must restrict their action to individual grievances. However they stimulate the dialogue between workers' and employers' representatives at the firm level, which may improve labour relations in the medium run. Finally, speedy judgments were instituted for demands under 40 minimum salaries, but they must be resolved in one single hearing or, if additional information is called for by the judges, in a maximum of 30 days. According to the data available at the Labour Justice website, more than 60% of the conflicts are now decided at the first hearing.

Both in Brazil and in Argentina, changes in the labour legislation have been an initiative of the federal governments, with sometimes intense resistance from social agents at different junctures. Counting on a solid political majority in their respective congresses, both Menem and Cardoso resisted the pressures from the labour movement to reduce the depth and scope of the legislation approved, which was based on the simplification of the labour contracts and on the reduction of the social benefits associated to the job. The measures, allegedly devoted to employment creation, had little, if any impact on the unemployment rates, which remained very high in both countries. In Brazil, all that the labour movement could do was to include the need for collective bargaining in the implementation of flexible work contracts, the participation in profits as well as the 'bank of hours'. But a weak labour movement can make no guarantee of favourable agreements, as we have seen when discussing collective bargaining. In Argentina, the tradition of centralized bargaining was broken in the 1990s, and the new labour legislation did not mention the role of unions in the creation of the new forms of contract.

In both countries employers associations did not play a central (I would say, visible) role in the design of the new legislation. But they certainly supported the reforms, and acted as strong pressure groups in each country's congresses to guarantee the reduction of the labour costs and the new forms of labour contracts. In Brazil, the most important pressure group has undoubtedly been the National Confederation of Industry (CNI), which advised capital's representatives, exerted surveillance on their votes, and proposed changes in measures emanating from the federal government. The Brazilian Federation of Banks (FEBRABAN) has also exerted strong pressures over the parliament to have the reforms approved in fast track. The same can be said about the Argentina Industrial Union (UIA). This association had an ambiguous relation with the Menem government. On the one hand, it was never overtly critical of the Convertibility Plan due to the popular support for it, as a result of its success in taming inflation, and to the economic growth it unleashed at least until 1997. But the plan (and this has happened in Brazil also) internationalized the economy, reducing the size of the national bourgeoisie and, hence, the constituency of employers' associations, the most affected of which was undoubtedly the UIA. Support for the Menem policies meant misrepresentation of the interests of many employers, because thousands of them lost their companies either by bankruptcy or to foreign buyers. On the other hand, in Argentina (and in Brazil also), manufacturing is the most important employer of registered workers, and changes in the labour contract legislation affected costs immediately, hence the strong interest of the UIA (and the CNI) in the reforms.

It should be noted that in both countries, Brazil and Argentina, employers' support for flexible measures in the labour market had nothing to do with employment creation. Their interest was in the reduction of adjustment costs in order to compete in the new global environment. Most of all, they wanted the reduction of the costs of firing, either to replace an old, unskilled labour force or to destroy jobs pure and simple. In Mexico, COPARMEX has also tried to change the law, supporting reform projects discussed in Congress in the second half of the 1990s that aimed at the flexibilization of the labour code to favour restructuring. But no reform project has ever been voted on.

In Brazil, the labour movement was divided with respect to the reforms. Força Sindical supported the flexible measures from the start. In fact, the law of temporary work contracts was an initiative of this federation, with the support of the federal government. Força Sindical would support almost all of the Cardoso's policies until 1999 (when the economic plan failed), arguing the hegemonic discourse according to which a flexible labour market facilitates job creation. The CUT, on the contrary, opposed every single flexibility policy by lobbying in Congress or protesting in public demonstrations. But opposition was always the minority in parliament, and the government could go ahead with its changes. In Argentina, workers representatives also supported the changes, for reasons already mentioned. In spite of this, unemployment grew in both countries.



## IV. Recommendations

It is not easy to make recommendations for the three countries taken together, due to the enormous diversities in the institutional and political histories, as well as the varied economic environment. Argentina, Brazil, and Mexico are presently facing huge changes in all three levels of social organization (institutional, political and economic), and this blurs the horizon even for the most insightful analyst. Argentina is trying to re-build the country's social and economic fabric, and the memory of the events of December 2001 is so strong that people are eager to take their future in their hands, which has increased the rate of participation of civil society in public affairs. The economy is recovering, and politics regained momentum as the main instrument of cohesion of the Nation. In Mexico, the loss of power by the PRI in 2000 also unleashed a democratic stream that is still in effect, albeit strong resistance from the *ancien régime*'s institutions and political settings. At least since 1994 Mexican society is not the same, putting strong pressure for changes in the political regime as a whole. But the corporatist structure has proved strong and resistant to change. In Brazil, the election of Lula in 2002 brought to the fore of the political debate the problems of social exclusion, hunger and unemployment, as well as the necessity of reforming the social security system, labour relations and patterns of social dialogue. The leftist discourse of the PT notwithstanding, the macroeconomic agenda is still the one emanating from the Washington Consensus, though, and social policies are still waiting to be seen. The scenario is changing so fast in the three countries that recommendations can only be tentative.

Employment creation is only possible in an environment of economic growth. If the economy is stagnated or growing too slowly, good jobs tend to lose participation in the total amount of employment. Because unemployment insurance is limited in Argentina and Brazil and non-existent in Mexico, most workers who lose their jobs are forced to work despite the job, and accept informal labour relations, precarious jobs and low income activities. The growth of the informal labour market is closely related to the absolute reduction of employment in manufacturing and in the public sector (Portes and Hoffman, 2003). This decrease was not followed by an increase in employment levels in services and trade, or the so-called 'new economy'. In Brazil, 10 million good jobs were lost in manufacturing due to technological restructuring from 1990 to 2000. The formal labour market has created only 3.4 million jobs in ten years, while the informal one has created 10.8 million positions.<sup>58</sup> Workers who lost their jobs in manufacturing were forced to find precarious work in the informal sector.

Economic growth is a necessary, though not sufficient condition for employment creation, especially if good jobs are the target of public policies. By good jobs I mean jobs with minimum social protection, regulated either by law or pervasive collective agreements, assuring workers some protection if dismissed and provisions for future retirement, in sum, jobs assuring socioeconomic security for a decent life. In Latin America, typically, this was the kind of job one would find in manufacturing, public services and state-owned enterprises. Neoliberal policies hit exactly these three cornerstones of the ISI mode of development, putting almost nothing in their place. In Brazil and Argentina, the labour law was flexibilized and collective bargaining decentralized, reducing the scope of protection even for formal employees. In Mexico, the

---

<sup>58</sup> Personal conversation with David Kupfer, researcher on industrial economy, professor of the Federal University of Rio de Janeiro. Data results from ongoing research headed by Kupfer, previously released in a press conference in January, 2004.

law has not changed, but the number of workers in big and medium firms covered by collective agreements was reduced dramatically. Economic growth may bring back some of the jobs lost during restructuring, but the degree of the protection of these new jobs will be much narrower than before.

In Argentina, Brazil and Mexico, the creation of jobs may not be enough if the target is not only to employ the people, but also to provide good jobs. It is a truism nowadays to say that the problem in some Latin American countries (like Mexico in the last 20 years or Brazil until the mid-1990s) is not so much to create jobs, but to create quality jobs. Workers in Brazil and Mexico are poor, and in Argentina are poorer than ever. More members of the families must work to sustain minimum standards of living, and most families in the three countries earn three minimum wages or less. Economic restructuring in the nineties reduced the participation of wages in the national wealth in all three countries, thus impacting on the capacity of consumption of the families and the potential for internally driven economic growth. The three economies had historically relied on the internal labour markets to grow, and only Mexico succeeded in redirecting its economy to the external (North-American) market.

Economic growth alone does not solve this problem or alter the structural limits. It must come in tandem with a new social contract – only possible with the inclusion of labour and capital representatives in social dialogue, endeavours which focus on the redirection of the current public policies away from deflationary macro-economic orthodoxy – towards redirecting public employment policies away from the individual to the society. To demonstrate, a somewhat elliptical argument must be put forward. The entire rationale of the hegemonic employment policies in the neoliberal era has been based on three major pillars. First, improvement of the ‘quality’ of the human capital of the countries. Workers with more formal and practical abilities and skills, the argument goes, are more productive and more employable. The employability argument, based on formal human capital theories and findings, explain both the unemployment of workers displaced during the restructuring processes and the employment of those who kept their jobs as a function of skills. It is as if workers had lost their jobs not for machines and technology, but for other, more qualified workers. If they were qualified, they would be employed.

Governments in the three countries have been quite efficient in pushing this hegemonic vision into the public sphere. I have already shown how CUT, Força Sindical and other central federations embarked in the PLANFOR in Brazil as deliverers of professional training to the unemployed, thus legitimizing the federal, individualizing public policy based on the ‘employability’ principle. The CGT in Argentina also supported the programs of re-skilling proposed by the Menem government. At this very moment an enormous effort from the Kirchner government that is emerging from the Diálogo Argentino tables is directed to the professional training of the unemployed. In Mexico, the CT, the UNT and even the Frente Sindical Mexicano have supported skilling policies, showing that the rationale of the first pillar of the neoliberal employment package has become hegemonic everywhere.

This hegemony at the ideological level collides with the destruction of millions of jobs in manufacturing in the three countries (in Mexico, mostly in brown field areas). The jobs, to repeat, were destructed, not rotated or substituted by more qualified jobs. I am not saying that formal qualification and education are not important for economic development. Evidence abounds showing that they are. What I am suggesting is that education alone does not create jobs. It certainly prepares the workers to better compete within the labour market, but this may have as an unwanted consequence increased pressure on the real wages of the more qualified jobs. Brought to its limits, in a situation of

economic stagnation and job stability or even reduction (as in all three countries discussed here), more qualification will provoke a domino effect down the pyramid of the jobs' structure, with, say, university graduates occupying the jobs of high-school graduates, displaced high-school graduates occupying jobs of basic school graduates and so on. The net effect is over-qualified people occupying under-paying jobs. Lester Thurow (1973) was the first to call attention to this, but the argument is recurrent in the literature.<sup>59</sup> For education to have virtuous social effects, it must be accompanied by economic development and job creation, preferably jobs compatible with the existing stock of human capital.

Education and training do matter, of course. But education and training for what? The new production methods in most industries are no longer task specific. They demand general knowledge, creativity, capacity to innovate and the capacity to respond to new demands. Instead of professional training, what less educated workers probably need is a different kind of formal education, devoted to the development of human talents that can be used in a flexible way in many different kinds of jobs. Workers' support for the skilling panacea could be redirected to the support of a broader discussion of the reform of the school system, including higher education. Social dialogue could play an important role here. The three Latin American countries are big and unequal. Most problems have their boundaries circumscribed to certain regions and territories. Social partners could engage in locally designed dialogue stances to discuss territory based deficiencies and demands concerning education and training, while more centralized stances would propose universal policies related to minimum standards for basic and higher education. The experience of the Regional Chamber of the ABC in São Paulo is a good example of how public officials can engage civil society in a process of consultation about a myriad of issues, including education and training that can help foster economic growth and employment creation using the territory as a central reference.

The second pillar of the individual-based employment policy rationale is the entrepreneurship panacea. Highly qualified workers in managerial positions are also displaced by the new methods of organization of work which has transferred responsibilities directly to workers, and lessened the number of supervisory jobs. This affects engineers, administrators, designers, economists and other professions. At the same time, the global outsourcing of manufacturing components and even services, stimulated by economic opening, has favoured the concentration of research and development departments in the headquarters of transnational firms, further reducing labour market opportunities for scientists, engineers and other technicians devoted to technological development. Many of these jobs have been eliminated. On the other hand, many manufacturing or even services' workers, when made redundant, may be too 'old' to find a new job, 'oldness' being a socially constructed category, a result of labour market dynamics which defines specific cut-offs for an economically 'useful' labour force. This encompasses all kinds of skills, from maintenance workers to highly qualified managers of the textile and auto industries. These workers will not find other jobs, nor will the engineers and scientists just mentioned. These workers, the argument goes, must be encouraged to become entrepreneurs.

In Brazil, Mexico and Argentina, micro-entrepreneurship is synonymous with informal labour relations. They may create occupations, but not good, decent jobs. The

---

<sup>59</sup> To my knowledge, the more recent defense of this theses, with vast empirical evidence for the US labour market is Pryor and Schaffer (1999).

vast majority of unpaid family workers are located in micro-firms. In Mexico, 95% of micro-firm workers are not covered by collective agreements. Although data on this topic are not available for Brazil and Argentina, the situation is likely similar. In Brazil, the mean survival time of micro-firms is three years. Eighty per cent of firms die within five years.<sup>60</sup> Micro-firms are unstable, most of the times illegal. The major reason for this is that, as the ILO has shown in the 1970s', while studying the informal sector in some African countries, micro-entrepreneurship in poor countries tends to reproduce poverty. They do not make the economy more or less dynamic, they seldom enter a capitalist commodity chain. They permit the survival of would-be employees, to sell goods and services to poor or impoverished communities. Wages in Brazil and Argentina represent less than 35% of the GDP, and real wages fell in all three countries in the nineties. Impoverished internal markets are not good soil for the growth of micro-entrepreneurship. Again, economic growth, strong internal markets and improvement of the capacity to consume of wage earners are necessary conditions for micro-entrepreneurship to thrive, but again, they are not sufficient conditions.

Entrepreneurship has long been an aspiration of many Latin American workers. The urbanization from the 1940s to the 1970s brought the big cities an array of formerly rural workers expelled from their own farmlands, who aspired to establish themselves as self-employed workers after some years of salaried experience and savings. Literature on this issue abounds for the region. But the crisis of the 1980s and, more importantly, the huge unemployment crisis of the 1990s reversed the picture. Workers now prefer the stability and security of a formal job, stability related to regular pay, a horizon of savings and fair retirement. Entrepreneurship is unstable and precarious, and is no longer an option except in extreme cases, such as unemployment.

Nevertheless, the entrepreneurship ideology has gained the attention of labour and capital associations and, of course, of universities and government officials. In Brazil, as noted already, the FAT has financed many programs of the SEBRAE to stimulate micro-entrepreneurship, including firm incubation programs developed by universities in Rio and São Paulo. The CUT also has its entrepreneurship programs and Força Sindical has its own cooperative of workers in São Paulo, Santa Catarina and other regions. During the 1990s, as a form of protest against the Cardoso's restrictive fiscal policies, the CUT proposed a series of measures to stimulate small and medium businesses. In 2000, one of its documents proposed the creation of tripartite agencies to discuss priorities for the liberation of public credit and taxes to employment friendly sectors, including small business and agriculture, responsible 'for the generation of the majority of jobs in the economy'.<sup>61</sup> These measures were actually discussed in the FAT Committee, a tripartite body, and resulted in propositions concerning credit and tax reduction, most of which were for the agricultural sector. But neither CUT nor Força Sindical ever discussed sector-specific regulations concerning labour contracts and standards.

The CGT in Argentina, on the other hand, has a broader vision of the potential of this sector in the economy. As a means to overcome the crisis of 2001, it proposed: the creation of security funds to S&MEs in order to help them in case of economic difficulties (thus recognizing the precarious character of the firms); implementation of development and technological improvement policies suited to the small firms; stimulus to associative behaviour for export-oriented activities. These measures would probably be better

---

<sup>60</sup> See IBGE (2002).

<sup>61</sup> Retrieved from <http://www.cut.org.br/a30303.htm>.

designed in tripartite bodies, for they certainly involve a zero sum transfer of available (and restricted) public funds, that is to say, the establishment of priorities that would exclude other policies or reduce their scope. The S&MEs have always been a deep concern in the Mexican labour movement and the object of specific policies in almost all of the economic pacts, most of which were ineffective, except in controlling inflation and wages.

S&MEs need credit, tax subsidies, technical and technological support on how to run a business and survive the competition, and safety protection nets against economic cycles. This sounds like a paternalistic approach to entrepreneurship, and it is. Workers are not entrepreneurs, in the sense of ferocious profit seekers. Accumulation may not be (and most of the times is not) the aim of micro-entrepreneurship. State led social dialogue could encourage workers who are also entrepreneurs to form associations, cooperatives and representative organizations to join tripartite dialogues for their current needs. This may be a difficult task in the short run, but if money is available as an attraction tool the chances are good that dialogue will take place around this particular issue. What sounds naïve is to think that civil society (read atomized, socially dispersed unemployed and would-be entrepreneurs) will mobilize its own energies to create representative bodies to demand specific public policies from the state.

The third pillar of the rationale is the de-regulation of labour relations. Economic restructuring, as the argument goes, destructs, or better, re-shapes the productive structure. Millions of workers are displaced, millions of jobs destructed, and millions of others created elsewhere in the economic tissue. Labour regulations tend to restrict the depth and make the restructuring process suboptimal because they reduce the willingness of capitalists to invest. The costs of firing put a limit on the replacement of unproductive workers either by other, more productive ones or by technology. The cost of hiring (social benefits associated to the job by law or collective agreement) reduces the impetus of the new, emerging sectors to contract new workers. Traditional sectors will fire sub-optimally, emergent sectors will prefer technology to manpower. Economic inefficiency will result as well as unemployment. Labour market flexibility via de-regulation of labour contracts would reduce costs in both ends, firing and hiring, resulting in more efficiency, more productivity, better systemic responses to shocks and, hence, employment. But I have already given the figures here. The most de-regulated labour market, the Argentine one, is also the one with the greatest unemployment rate in Latin America. Brazil de-regulated a great deal yet unemployment is above 12%. And Mexico did not de-regulate at all, while official unemployment rates (contested by analysts, it is true) are around 3%.

The cases of Brazil, Mexico and Argentina show that the costs of non-compliance with the labour market regulation are extremely low. The informal economy presents strong evidence for this. Additional evidence, perhaps more important, is the increase in the number of individual demands placed in the judicial labour courts in Brazil. The demands approach two million per year, most of them related to the non-compliance of employers with the legislation regulating compensations for dismissals (Cardoso, 2003: ca 3). Enforcement of the legislation by the state or by unions is very weak in Mexico too (Bensusán, 2000). Forty four per cent of Mexican salaried workers did not have any kind of labour contract in 2003 (Chavira, 2003: XXVI). In both countries, workers typically traded job security for labour rights in the 1990s, but jobs were not secured whatsoever.

Regarding the responses of the labour movement in the three countries to the flexibilization of the labour codes, especially in Brazil and Argentina, labour was not in a position to demand any tradeoff. In Brazil, labour lost social power locally and at the national level, and lost fringe benefits that it had won in the 1980s, as it was incapable of preventing the decline of purchasing power and jobs. In Argentina there has not been a

trade-off at the labour market level, but there has been at the political level. In exchange for de-regulation, the CGT maintained the union structure virtually intact, but lost affiliates and also bargaining power, as illustrated by the de-centralization of collective bargaining. It also lost the principle of ultra-activity of collective agreements, being forced to negotiate new rules every two years in an environment of decreasing bargaining power.

In Mexico, though the labour law was not reformed, the weak labour movement could not prevent the increasingly unlawful nature of labour relations. According to the UNT, in 2002 there existed 100,000 collective agreements deposited at local courts of conciliation and arbitration, but only 5% of them were revised at two year intervals as demanded by law. In the federal jurisdiction, of 600,000 collective agreements, only 50,000 were revised each year (Rocha, s.d.: 55). Without revisions in the agreements, salaries and working conditions are not revised either, and although formally regulated by agreements, these contracts are actually illegal for all practical purposes.

The neoliberal era brought labour market insecurity to the vast majority of the population of the three countries. According to the Latinobarómetro survey of 2003, 63 percent of Brazilians, 55 percent of Argentines and 53 percent of Mexicans were afraid of losing their jobs in the next twelve months. Especially in Brazil and Argentina, neoliberal public policies did not coherently account for the nature of the instruments that helped to galvanize social cohesion throughout history. The inclusion of the working classes in the social dynamics and in the political regime was made through labour regulation, the formal guarantees that stabilized workers' expectations, gave them voice in the political arena, assured them some relief in unemployment – a relief related to the condition of being a worker, not to charity – and provided social protection for them and for their children. Labour market regulations were a means of inclusion in the ISI period, and workers dreamed of being included in the universe of regulation. True, the formal labour market has never included everyone. Informality is pervasive in Latin America. But the important issue for the argument I am trying to unfold here is that the very *expectation* of inclusion has always played an 'inclusionary' role in the Region. Most of all, because of the traditionally high turnover rates, that expectation was recurrently filled and informal workers would experience longer or shorter spells with a formal job. This, I argue, has contributed to making the formal labour market and its regulations one of the primary, if not the most important cohesive institution in the three countries. These countries have never been post-industrial societies. Rather, work remains still a central element of the biographies of the vast majority of the population in the region. What the neoliberal era actually did was to deny this simple, socioeconomic truth. De-regulating labour relations has effectively broken the inclusionary promise of the formal capitalist economy and of the formal labour market, wiping away from the workers' horizon the perspective of a decent work for a decent life. This contributes to explain why workers' unrest shrank while social unrest catapulted in the three countries. Workers, afraid of losing their formal jobs, the rights of the vanishing promised land, acquiesced with draconian labour relations, reducing the collective action impetus. Unemployed, landless, roofless, rightsless, poor workers stormed the scene and demanded social inclusion of some sort. Such an inclusion cannot be based on policies centered exclusively on the individual.

For this reason, I have mentioned the necessity of a new social contract, based not on the nostalgia of the ISI period, but on the redefinition of the conditions for the inclusion of workers. It must be critical of the individual-centered employment policies that helped to shape the dramatic social crisis that has occurred. The main, simple idea is that workers need jobs and income, but jobs that assure socioeconomic security, and income that assures a decent life. Workers also need to have their voice heard in the political system. This, too,

points to at least some universal, encompassing public policies that, in one way or another, recognize that the people who live by their capacity to work are entitled to rights related to the safeguard of that very capacity against unjust or violent exploitation and deprivation. This, in essence, has been the very pillar of the institution of labour rights in western capitalism (Supiot, 1994; Castell, 1996), denied by the neoliberal stream but not yet buried under the fallen bricks of history.

A new social contract presupposes democracy in labour relations and in the political system. Mexico is a clear example that social dialogue is doomed to fail if workers are not autonomous partners (Bensusán, 2003; De La Garza, 2003a). The *possibility* of emergence of dissonant voices in the public debate must be assured from the start, even if these voices never show up. Democracy is a way of maneuvering dissent. There may be democracy without dissent, but there cannot be dissent without democracy. Workers must be autonomously organized and have the capacity of organization protected against external forces (the state and employers alike) and to negotiate in equal terms with their social partners. This is the main recommendation I can make here. Otherwise social dialogue for a new social contract will be as fake as in Brazil in the eighties or Mexico always. I suggest a labour legislation for Brazil, Mexico and in part Argentina (where the union law is more democratic) that assures unions the freedom to organize workers within the firm, assures union stewards protection against firm and state officials, mandates conflict resolution through collective bargaining (and not through labour courts), and makes effective ILO Convention 144, which establishes the necessity of tripartite mechanisms to ratify its recommendations and conventions. In sum, a legislation that would ensure union democracy, protect union militants and members, free union association and mandate collective bargaining and social dialogue concerning the labour law. This is not an easy task, because it will have to cope with pervasive institutional settings, such as corporatism in Mexico. As De La Garza puts it (2003a: 359), the Mexican 'system of labour relations' was a constitutive part of the 'political system', and has consolidated a kind of union action where the relations with state officials and bureaucracies prevailed over collective bargaining. In Brazil, many unions survive due to compulsory taxes, and will also oppose changes. But changes are mandatory to strengthen unions if social dialogue is to have any practical meaning.

Prospects for democracy are good in Mexico after decades of domination of a single party. The good thing about democracy is that democratization of one sphere of the social life fosters the opening of related spheres (O'Donnell, 2001). Competition within the political system oxygenates the atmosphere of interests and paves the way for the democratization of social relations. More democratic social relations put pressure on the political system to further open the decision-making processes. In the long run, more democracy tends to manifest more democracy. Institutions resist, though, and a political regime able to survive for seventy years, adapting itself at the margins to accommodate social change, has proved strong and protected against abrupt change. The new social actors are still striving for recognition, and must be included if the democratization process is to achieve this blend.

This sounds like a naïve recommendation, but it is not. No responsible analyst can recommend institutional settings out of the blue. Any institutional redefinition must take into account the institutional and political histories of the countries. In fact, one of the causes of the demise of neoliberal policies everywhere is that they have treated every country in the same manner. Mexico has tried hard to build up a consensual reform of the labour and union laws, a debate that has lasted for almost 10 years. It is a difficult task to accommodate actors and social forces which are still strong in bureaucratic and political

terms, such as the corporatist unions and the old PRI. Union democracy is the key to democratic labour relations, and the ILO conventions are the best road to achieve it.

A democratic union structure will benefit from Mexico's long history of social dialogue on issues such as inflation, productivity, wages and, marginally, employment. Employment has always been the less important issue. This stems from the fact that the labour movement was almost never able to impose or force the negotiation of its main interests; dependent as it has been historically on the political system at large and in part because unions represent the employees. All that notwithstanding, with an open unemployment rate of 2 or 3 per cent a month, creating employment is not the real problem in Mexico today. The problem is how to convert bad jobs into decent jobs. As mentioned, 44 per cent of the Mexican salaried workforce are not covered by any kind of formal contract (representing 28% of the EAP). Almost one fourth of the labour force is made of self-employed workers, and almost 50 per cent are in the informal sector. Wages are low: 70 per cent earn 3 minimum wages or less. Any tripartite arrangement must take into its hands the task of formalizing informal labour relations and, in the long run, improving working conditions in under-capitalized sectors.

Argentina has survived the social and economic collapse of 2002. Political and social institutions are being rebuilt, against all odds. Democracy and social dialogue have played a central role here. The social movements were called to negotiate their demands and were recognized as legitimate partners in the reconstruction of the country while having their demands looked after by the new Peronist government. Néstor Kirchner has turned his back to neoliberalism, and deflationary macroeconomic policies are not in the center of the public agenda, neither is the payment of foreign debt. Economic recovery, growth and employment creation, these are the main issues at hand, together with the revision of the de-regulatory measures of the Menem era. Universal social protection is also an important issue of the new Argentine political agenda, and social solidarity has been patiently re-used on this basis.

In Brazil, hope is still on the horizon of the new government. Lula has 'opted' to go along with the neoliberal agenda. Fiscal austerity and high interest rates are in place to attract foreign investments. These measures are in place to assure the payment of the public debt as the guiding goal of the economic performance – that is to say, the three columns of the Cardoso government which resulted in economic stagnation in the 1990s – are still the rationale of public policies. Everything else is subsumed to the imperative of generating surplus in state accounts. The promise at hand is that the government is reducing the external fragilities of the economy (public debts nominated in US dollars, deficits in the foreign accounts, lower rate of savings in dollars etc.) in efforts to rebound economic growth. In parallel, institutional reforms target employment relations, social security systems, educational system and others, all of which inspired by the World Bank's standard recommendations for Latin America. The strong social discourse is still this, a discourse. However, the Lula government, as mentioned, has partly democratized the decision making process with the constitution of a series of forums and councils to help the Executive design the reforms. Social dialogue is an important element of the reform in labour regulations, and the FNT (National Forum of Work) is due to release its proposal to reform the union structure. Everyone expects the democratization of the organization of unions and a change in the role of the labour courts in labour relations, restricting it to the voluntarily demanded conciliation of mandatory collective bargaining.

The deepening of the process of social consultation for the design and maneuver of public employment policies is definitely decisive. One major issue in the social agenda of the three countries is, as I said, the formalization of informal labour relations, the attraction



of the informal economy and its agents to public legality. This is not an easy task. The Argentine case shows that one does not formalize employment relations by law (Olmedo and Murray, 2002). Economic agents must be stimulated to show their faces to the legal authorities. For this, they must be heard. This is because informality is a wide and heterogeneous social phenomenon. Some employers may be informal because of a 'wrong' step that forced them to halt tax payments at particular moments. Others because the amount of capital involved in their business is not enough to legalize the activity or the labour contracts. Others may benefit from illegality. Surveillance in some cases, police in others, monetary stimulus, amnesty, credit, there are many ways of stimulating and forcing different kinds of informal employers to formalize their businesses. In almost all of them, opening a communication channel with state officials may be the best way to design focused policies.

The state apparatus must be prepared and equipped to make these changes. This means that the idea of a 'minimum state' must be revised. I do not mean that the state must again accommodate the social conflict in its structures, as it did in the ISI period. But, I do mean professional state bureaucracies capable of producing focused sector studies about the needs of all different kinds of informal workers, design focused (combined with universal) policies to stimulate them, implement them and track their results in terms of the desired targets, all this in straight negotiation with the interested parties, be them employers or workers. To do so, the state in the three countries must be prepared to forget past illegalities in the name of legal and formal labour relations in the future. I believe that the best way to do this is to offer credit to informal employers, irrespective of their illegal past, and to stimulate informal employers to create the mechanisms to control their activities, for instance through representative associations and cooperatives.

On the other hand, the self-employed are also informal for many reasons: to evade taxes, to secure some income during unemployment spells, to help the family, to not to submit their labour to a third party, because they are forced due to physical disabilities, age, lack of skill or lack of jobs fitted to their skills and so on. Each of these situations demands different policy designs, many of which are one way or another related to economic growth. A possible way of attracting the self-employed to public visibility is the creation of special, focused social security systems that could stimulate voluntary adhesion with the promise of future relief. Workers could contribute a variable proportion of their income, and the future benefit would vary accordingly. Bipartite bodies could control and manage these funds and, again, credit could be offered to those willing to join the system.

One recommendation that could probably have a huge impact in all three countries, but which, again, is difficult to implement given the prevailing neoliberal orthodoxy, would be the inclusion of employment targets in the IMF impositions. Latin America has been forced to include inflation targets, fiscal targets, macroeconomic targets, institutional targets, but never a social target so important as the one of generating employment and income to the people of the countries it supervises. If the central banks should look after both the currency and the economic wellbeing of the population at the same time, employment targets would have to be a central theme in the restructuring agenda. This, of course, sounds like a Keynesian approach and it partly is. The Lula government has asked the IMF to revise the clause (in IMF agreements) that says that state investment is expenditure. If governments could invest in infrastructure and housing, this would stimulate economic growth and, also, employment. Construction is by far the most employment-generating sector by unit of capital invested. This simple measure could have a major and fast impact on employment rates, irrespective of social dialogue.

A word on collective bargaining. Because of the nature of labour relations in decentralized collective bargaining systems, employment issues except job security tend to be out of the agenda of the labour movement. Job security means the closure of jobs to labour market competition, consolidating union constituencies and power. It does not create employment. It only postpones unemployment, being the principal pillar of socio-economic security as defined by the ILO. In the 1990s, Mexican unionism negotiated external flexibility in big firms, defining rules for hiring and firing practices and assuring closed shop measures in many sectors, but we have seen that the protection is falling sharply (De La Garza, 2003: 126 and ff.). Jobs are not secure except in big firms in manufacturing, banks and some privatized companies. Labour could not secure jobs in Brazil either, and the country has one of the highest turnover rates in the world. Forty per cent of the formal and 50 per cent of the informal jobs last one year or less (Paes de Barros, 1997; Cardoso, 1999). Only occasionally could workers secure jobs in critical junctures, such as during the negotiations in the Sectoral Chambers at the beginning of the 1990s. In Argentina the figures are not that dramatic, but work insecurity has been the enduring mark of labour relations in the 1990s and more so in the 2000s. Decentralized collective bargaining reduces the ability of labour to incorporate employment *creation* as a central issue of concern.

The major challenge for the labour movement appears to be the inclusion of the vast majority of workers now unprotected by any form of labour contract or working in precarious conditions in formal labour relations. This cannot be done at the decentralized collective bargaining level. This can only be done in larger, bi or tripartite mechanisms with power to discuss, design and implement public policies devoted to such an inclusion. Once again, the experience of the ABC Region Chamber in the last years of the 1990s is a good example of successful negotiations in this direction. The Chamber elected the territory as the reference unit for policy making. Employment was treated as a systemic result of many different measures of local economic development, which included credit to micro-businesses, tax subsidies and state-sponsored minimum income to the poor and the unemployed (thus augmenting the families' income and consumption capacity, as well as the regional market of goods and services), training and education policies, investment in infrastructure of transports, communication, energy, housing and others, all of which planned and decided in multiparty working groups that included employers, workers, civil society associations, churches, public officials of four cities of the territory and others as well as ad hoc representatives depending on the policy at stake. One of the goals of the Chamber was the strengthening of civil society organizations and, also, of workers and employers associations, to consolidate semi-public channels to track the application of public resources. This kind of arrangement espouses the view that employment creation results from economic and social development altogether, and that social networks and safety nets are integral parts of socioeconomic security, of which a secure job is the main pillar. This is what I mean by a new social contract that redirects the focus of employment creation from the individual to the social. State agencies must play the catalyst here, stimulating civil society associations to participate in the policy making process, not only to establish priorities, but to design policies altogether. In this process, informal activities may be attracted to the surface of the legal framework via stimulus to form cooperatives as well as to participate in the value chains of the sectors elected as strategic to local development. Collective bargaining cannot perform this task.

Finally, in some sectors the labour administration on its own can play an important role in formalizing informal salaried relations. Firms evade the law in all three countries because the costs of non-compliance are very low. Thirty two percent of wage earners in

Argentina do not have a labour contract, a number that goes up to more than 44 per cent in Mexico and Brazil. Enforcement of the law is a necessary condition for the law to hold, and again, this demands state officials, or public servants. Simply put, more state.

## References

- Amadeo, E. and Camargo, J. M. (1996), 'Instituições e mercado de trabalho no Brasil', in Camargo, J. M. (ed.), *Flexibilidade do mercado de trabalho no Brasil*. Rio de Janeiro: FGV Editora, pp. 47-94.
- Araújo, A. M. C. and Gitahy, L. (2003), 'Reestruturação produtiva e negociações coletivas entre os metalúrgicos paulistas'. *Idéias* 9(2)–10(1): pp. 65-112.
- Barros, R. de and Mendonça, R. (1996), 'Flexibilidade do mercado de trabalho brasileiro: uma avaliação empírica'. in Camargo, J. M. (ed.), *Flexibilidade do mercado de trabalho no Brasil*. Rio de Janeiro: FGV Editora, p 157-201.
- Barros, R. de et al. (1997), 'Uma avaliação empírica do grau de flexibilidade alocativa do mercado de trabalho brasileiro'. *Texto para discussão* 499. Rio de Janeiro: IPEA.
- Bendesky, L. (2003), 'Despliegue regional del empleo en las manufacturas', in De la Garza, E. and Salas, C. (eds.), *La situación del trabajo en México, 2003*. México: Plaza y Valdez, pp. 273-296.
- Bensusán, G (2003), *Exclusión Social en América Latina: la Dimensión Institucional*. México: UAM-X (mimeo).
- Bensusán, G. (1992), *Institucionalización laboural en México, los años de la definición juridical*. PhD Dissertation, Mexico: UNAM.
- Bensusán, G. (2000), *El Modelo Mexicano de Regulación Laboural*. México: FLACSO, UAM, Friederich Ebert Stiftung and PyV Editores.
- Bensusán, B. (2003), *Exclusión Social en América Latina: La dimension Institucional*. Santiago (mimeo).
- Bensusán, G. and Alcalde, A. (2000), "Estructura sindical y agremiación", in Bensusán, G. and Rendón, T. (eds), *Trabajo y Trabajadores en el México Contemporáneo*, México: Miguel Ángel Porrúa, pp. 163-192.
- Bergquist, C. (1986), *Labour in Latin America*. Stanford: Stanford University Press.
- Bertola, G., Boeri, T. and Cazes, S. (1999), *Employment protection and labour market adjustment in OECD countries: Evolving institutions and variable enforcement*, Employment and Training Papers No. 43. Geneva: ILO.
- Bizberg, I. (1998), "Las relaciones industriales en México: Cambio y permanencia", in Dombois, R. e Pries, L. (eds), *Las Relaciones Industriales en el Proceso de Transformación en América Latina – El caso de México*. Documentos de investigación, Bremen: Univerty of Bremen.
- Bizberg, I. (1999), Le syndicalisme mexicain face à la mondialisation et à la decomposition du régime politique. *La Revue de L'IREES*, # 29. Paris, IRES, January 1998-1999.
- Bizberg, I. (2003), 'Estado, Organizaciones Corporativas y Democracia', forthcoming in Alberto Azíz, *México al inicio del siglo XXI: democracia, ciudadanía y desarrollo*.

- Blyton, and Turnbull, (1994), *The dynamics of Employment Relations*. London: Macmillan.
- Buchanan, G. (1995), *State, Labour, Capital. Democratizing Class Relations in the Southern Cone*. Pittsburg: University of Pittsburg Press.
- Buchanan, G. (1997), “Counterhegemonic Strategies in Neoliberal Argentina”. *Latin American Perspectives*, Issue 94, Vol. 24, No. 6, pp. 113-132.
- Bulmer-Thomas, V. (1996), *The new economic model in Latin America and its impact on income distribution and poverty*. New York: MacMillan Press.
- Cardoso, A. M. (1999), *Sindicatos, trabalhadores e a coqueluche neoliberal*. Rio de Janeiro: FGV.
- Cardoso, A. M. (1999a), *A trama da modernidade: pragmatismo sindical e democratização no Brasil*. Rio de Janeiro: Revan.
- Cardoso, A. M. (2003), *A Década neoliberal e a crise dos sindicatos o Brasil*. São Paulo: Boitempo.
- Cardoso, A. M. and Comin, A. A. (1995), “Câmaras setoriais, modernização produtiva e democratização nas relações entre capital e trabalho no Brasil”, in Nadya A. Castro (ed.): *A máquina e o equilibrista: tecnologia e trabalho na indústria automobilística brasileira*. São Paulo: Paz e Terra, pp. 387-427.
- Castell, R. (1998), *As metamorfoses da questão social: uma crônica do salário*. Petrópolis: Vozes.
- Chaves, C. de A. (2000), *A marcha nacional dos Sem Terra: um estudo sobre a fabricação do social*. Rio de Janeiro: Relume e Dumará.
- Chavira, E. B. (2003), *Elementos de análisis para la discusión de la reforma laboral*. [http://www.cddhcu.gob.mx/cesop/doctos/ref\\_lab.pdf](http://www.cddhcu.gob.mx/cesop/doctos/ref_lab.pdf).
- Clifton, J. (2000), “On the political consequences of privatization: the case of Teléfonos de México”, *Bulletin of Latin American Research* No. 19, pp. 63-79.
- Collier, R. B. and Collier, D. (1991), *Shaping the Political Arena*. Princeton: Princeton University Press.
- Cook, M. L. (1998), *The politics of labour law reform. Comparative perspectives on the Mexican case*. Paper presented at the Latin American Studies Association International Congress, Chicago, Illinois, September 24-26.
- De la Garza, E. (1990), “Reconversión industrial y cambio en el patron de relaciones laborales en México”, in Anguiano, A. (ed.), *La modernización de México*. México: UAM.
- De la Garza, E. (1998), *Estrategia de modernización empresarial en México. Flexibilidad y control sobre el proceso de trabajo*. México: Fundacion Friederich Ebert.
- De la Garza, E. (2000), “La contratación colectiva”, in Bensusán, G and Rendón, T. *Trabajo y Trabajadores en el México Contemporáneo*, México, Porrúa

- De la Garza, E. (2003), *Reestructuración Productiva, Empresas y Trabajadores en México al Inicio del Siglo XXI*. Center for Latin American Studies, University of California, Berkeley (mimeo).
- De la Garza, E. (2003a), 'La crisis de los modelos sindicales en Mexico y sus opciones', in De la Garza, E. and Salas, C. (eds.), *La situación del trabajo en México, 2003*. México: Plaza y Valdez, pp. 349-377.
- DIEESE (1997), neg. coletivas
- Dombois, R. and Pries, L. (2000), *Relaciones Labourales Entre Mercado y Estado*. Caracas: Nueva Sociedad.
- Dupas, G. (2001), *Economia Global e Exclusão Social*. São Paulo: Paz e Terra.
- Epstein, E. C. (2001), *Explaining Worker Mobilization in Recent Argentina and Chile*. Paper presented at the XXIII LASA Congress. Chicago, Sept. 6-8.
- Ermida Uriarte, O. (1995), "El futuro del Derecho del Trabajo y las relaciones laborales," in Portela, M. S. and Wachendorfer, A. (eds.), *Sindicalismo Latinoamericano: entre la renovación y la resignación*. São Paulo and Caracas: ILDES-FES and Nueva Sociedad, pp. 47-56.
- French, J. (2001), *Afogando em Leis: A CLT e a cultura política dos trabalhadores brasileiros*. São Paulo: Perseu Abramo.
- Gaudio R. and Thompson, A. (1990), *Sindicalismo peronista, gobierno radical*. Buenos Aires: F. Ebert.
- Geddes, B. (1994), "Challenging the conventional wisdom". *Journal of Democracy* 5, no. 4, pp. 104-18.
- Guimarães, I. G. (1995), *Câmaras setoriais – Notas sobre sua constituição e quadro atual. Série Seminários 22/94*, Rio de Janeiro: Ipea.
- Haggard, S. and Kaufman, R. (1992), "The political economy of inflation and stabilization in middle income countries". In Haggard and Kaufman, (eds.), *The politics of economic adjustment*. Princeton: Princeton University Press.
- Halperín, T. (1983), *Argentina: La democracia de masas*. Buenos aires: Editorial Paidós.
- Hammond, J. (1999), 'Law and disorder: the Brazilian Landless Farmworkers' Movement'. *Bulletin of Latin American Research*, 18(4): pp. 469-489.
- Heckman, J. and Pagés, C. (2000), The Cost of Job Security Regulation: Evidence from Latin American Labour Markets. *Working Paper* No. 430, Inter-American Development Bank.
- Herrera, F. and Melgoza, J. (2003), "Evolución reciente de la afiliación sindical y la regulación laboral en México", in De la Garza, E. and Salas, C. (eds.), *La Situación del Trabajo en México, 2003*. México: UAM/IET, pp. 323-347.
- IBGE (2002), *Síntese de Indicadores Sociais 2001 – Sindicatos*. Rio de Janeiro, IBGE.

- Korpi, W. and Shalev, M. (1980), "Strikes, power and politics in western nations - 1900/1976", in Maurice Zeitlin (ed.): *Political power and social theory*. Connecticut: Jay Press.
- Leite, M. de (2003), *Trabalho e Sociedade em Transformação*. São Paulo: Perseu Abramo.
- Lembruch, Gerhard. (1984), 'Concertation and the structure of corporatist networks', in Goldthorpe, J. (ed.) *Order and conflict in contemporary capitalism*. Oxford: Clarendon Press.
- Lemos, A. H. C. (2003), *Qualificação profissional e desemprego: a construção social do problema*. PhD. Dissertation in Sociology. Rio de Janeiro: IUPERJ.
- Margheritis, A. (1999), *Ajuste y Reforma en Argentina (1989-1995)*. Buenos Aires: Nuevohacer.
- Marques, G. and Pagés, C. (1998), *Ties that bind: Employment Protection and Labour Market Outcomes in Latin America*. Inter-American Development Bank (mimeo).
- McGuire, J. (1990), *Union Factionalism and Democratic Consolidation in Alfonsín's Argentina, 1983-1989*. Middletown: Wesleyan University (mimeo).
- McGuire, J. (1997), *Peronism Without Perón*. Stanford: Stanford University Press.
- Moody, K. (1997), "Towards a social-movement unionism", *New Left Review* 225 (Sept. Oct.).
- Munck, R. (1997), "Introduction: A Thin Democracy", *Latin American Perspectives*. Issue 97, Vol. 24, no. 6, pp. 5-21.
- Murillo, M. V. (2001), *Labour Unions, Partisan Coalitions, and Market Reforms in Latin America*. Cambridge: Cambridge University Press.
- Nelson, J. (1992), "Poverty, equity and the politics of adjustment". In Haggard, S. and Kaufman, R., (eds.), *The politics of economic adjustment*. Princeton: Princeton University Press.
- Neto, A. M. C. (1999), *As negociações coletivas como expressão das relações de trabalho. Um estudo do caso brasileiro de 1992 a 1998*. PhD Dissertation, UFMG.
- Novick, M. (2001), 'Nuevas reglas de juego en Argentina: competitividad y actores sindicales', in *Los sindicatos frente a los procesos de transición política*. Buenos Aires: CLACSO.
- Nuñez, I. M. (2003), *Sindicalismo mexicano en transición*. Retrieved from <http://www.editorial.udg.mx/ruginternet/rug21/art9.html> on Aug. 2003.
- O'Connell, L. (1999), "Collective bargaining systems in six Latin American countries". *Working Paper # 399*, Washington: IDB.
- OECD (1997), *OECD Economic Surveys: México*. Paris.
- Offe, C. (1985), *Disorganized Capitalism*, (Edited by John Keane). Chicago: MIT Press.

- OIT (2002), *Panorama Laboural 2002. Latin America*. Chile.
- Oliveira, M. A. (2002), Tese?????
- Oliveira, M. A. (2003), “Tendências recentes das negociações coletivas no Brasil”. In Santana, M. A. e Ramalho, J. R., *Além da Fábrica: Sindicatos, trabalhadores e a nova questão social*. São Paulo, Boitempo, pp. 271-298.
- Olmedo, C. and Murray, M. J. (2002), “The Formalization of Informal/Precarious Labour” in Contemporary Argentina. *International Sociology* 17(3), pp. 421-443.
- Palermo, V. (1994), “El menemismo perdurará?” in Iturrieta, A. (ed.), *El pensamiento político Argentino Contemporáneo*. Buenos Aires: Grupo Editor Latinoamericano.
- Portes, A. and Hoffman, K. (2003), ‘Latin American Class Structures: Their Composition and Change During the Neoliberal Era’. *Latin American Research Review* 38 (1): pp. 41-77.
- Pozzi, (2000), “Popular Upheaval and Capitalist Transformation in Argentina”. *Latin American Perspectives*, Issue 114, Vol. 27, No. 5, pp. 63-87.
- Pryor, F. L. and Schaffer, D. L. (1999), *Who's not working and why: employment, cognitive skills, wages, and the changing U.S. labour market*. New York: Cambridge Univ. Press.
- Ranis, (1989), “Redemocratization and the Argentine working class”. *Canadian Journal of Development Studies*, (X): 2, pp. 293-302.
- Ranis, (1997), *Clases, Democracia y Trabajo en la Argentina Contemporánea*. Buenos Aires: Corregidor.
- Rauber, I. (2000), *Tiempo de Herejías*. Buenos Aires: Instituto de Estudios y Formación de CTA.
- Rocha, M. (s.d.), *MPyME, trabajo y condiciones de vida frente al ajuste estructural*. In <http://www.saprin.org/mexico/research/capituloIII/III-1.pdf>
- Rock, D. (1991), “Argentina, 1930-46”, in Bethel, L. (ed.) *The Cambridge History of Latin America*. Vol. VIII, p 3-71. Cambridge: Cambridge University Press.
- Roman, R. and Arregui, E. V. (2001), “Neoliberalism, labour market transformation, and working-class responses. Social and historical roots of accommodation and protest”. *Latin American Perspectives*, Issue 119, Vol. 28, No4, pp.52-71.
- Ross, J. (1998), *The Annexation of Mexico: From the Aztecs to the IMF*. Monroe, ME: Common Courage Press.
- Roxborough, I. (1994), “The urban working class and labour movement in Latin America since 1930”, in Bethel, L. (ed.) *The Cambridge History of Latin America*. Vol. VI, Part 2, pp. 307-378.
- Sallas, C. (2003), ‘Empleo y salarios en el México contemporáneo’, in Bensusán, G and Teresa Rendón (eds.) *Trabajo y Trabajadores en el México Contemporáneo*, México: Porrúa, pp. 55-96.



- Santana, M. A. (1998), “O 'Novo' e o 'Velho' sindicalismo: análise de um debate”, *Revista de Sociologia e Política* 10/11, UFPR: SCHLA, pp. 19-35.
- Singer, (1988), “Reflexões sobre inflação, conflito distributivo e democracia”, in Reis, F. W. and O’Donnell, G. (1988): *Democracia no Brasil: dilemas e perspectivas*. São Paulo: Vértice.
- Soederberg, S. (2001), “From neoliberalism to social liberalism: Situating the National Solidarity Program within Mexico’s passive revolutions”, *Latin American Perspectives* 28(3), pp. 104-123.
- Squire, L. and Suthiwart-Narueput, S. (1997), ‘The impact of labour market regulations’, *The World Bank Economic Review*, Vol. 11, No. 1, pp. 119-143.
- Supiot, A. (1994), *Critique du droit du travail*. Paris: Presses Universitaires de France.
- Tavares, L. (2003), *Análise da Conjuntura Social – Setembro de 2003*, in [www.outrobrasil.net](http://www.outrobrasil.net).
- Thurow, L. C. (1973), *Generating inequality*. New York: Basic Books.
- Torre, J. C. and De Riz, L. “Argentina since 1946”, in Bethel, L. (ed.) *The Cambridge History of Latin America*. Vol. VIII, pp. 73-193.
- Tuma, F. (1999), *Participação dos trabalhadores nos lucros e resultados as empresas no cenário de flexibilização das relações de trabalho*. PhD Dissertation, UNICAM.
- Vadi, J. M. (2001), “Economic globalization, class struggle, and the Mexican State. *Latin American Perspectives*, issue 119, Vol. 28, No 4, pp. 129-147.
- Valdovinos, O. (1998), *Las relaciones del trabajo al final del siglo XX*.
- Weffort, F. C. (1978), *O Populismo na Política Brasileira*. Rio de Janeiro: Paz e Terra.
- Werneck Vianna, L. J. (1999), *Liberalismo e Sindicato no Brasil*. Belo Horizonte: UFMG.
- Weyland, K. (1998), ‘Swallowing the bitter pill: sources of popular support for neoliberal reforms in Latin America’. *Comparative Political Studies* 31(5), pp. 539-568.
- Zazueta, C. and De la Peña, R. (1984), *La estructura del Congreso del Trabajo*. México: FCE.



## **Appendix**

**Table 10**  
**Summary of the Collective Bargaining Systems in Argentina, Brazil and Mexico**

Country	General Features	State intervention	Level of centralization/decentralization
Argentina	High and centralized state intervention. There have been efforts to decentralize.	The State affords <i>Personería Gremial</i> to unions, determining the representatives of collective bargaining. The agreements must be approved by the Administrative Authority. Agreements are judged according to their impact in the economy or consumers. The Constitution of 1994 authorizes the federal government to suspend agreements for reasons of economic emergency. The legality of strikes is also a prerogative of the State. The State also presides at conciliation processes and can impose arbitration.	Until 1993 legislation centralized the system. Unions can only get <i>personería gremial</i> at company level if there doesn't exist any union at sector level. Unions with <i>personería gremial</i> had monopoly of representation of both affiliated and non-affiliated workers. Seven percent of all unions represented 75% of the workers. Seventy percent of the agreements were by sector of activity. Since 1993 the system has been decentralized. From 1995 to 1999 76% of all agreements have been set at company level. The reform decentralized the agreements and capital and labour can modify the level of negotiations. If no agreement is reached, the State will choose the lower level.
Brasil	Centralized, high state intervention, attenuated by the constitution of 1988. Still considered corporatist, but mostly because of the judicial intervention of labour courts. Monopoly of representation in transition, but there can be only one union by sector or profession in a municipality. Unions have administrative autonomy, but are still financed by mandatory taxes charged on all workers of the municipality. Central federations recognized since 1988.	1988 Constitution protects union autonomy; state is no longer able to confer union status or intervene in union administration. However, intervention still exists but enforced through Labour Courts. Bargaining process not regulated though outcome is. State continues to invoke old Labour Code declaring invalid any clause of a collective agreement which directly or indirectly goes against government economic policy, but only in case of state enterprises' unions. Labour ministry can initiate mandatory arbitration through <i>dissidio</i> process in cases of essential services. <i>Dissidio</i> process triggers mandatory conciliation and arbitration courts, which ceased to be tripartite in 1999. Collective bargaining opportunities are now enforced by the State and this is the preferred form of conflict composition. The <i>dissidio</i> can only be called for in case of frustration of collective bargaining. Labour courts are valuing conventional clauses.	1988 Constitution maintained corporatist structure. Only one union with <i>sindicato</i> status can represent a profession by industry in geographic territory. Law doesn't allow for firm-based unions. <i>Sindicatos</i> can bargain at firm level or sector level; oftentimes pursued a bi-level strategy to avoid the salary limits imposed by government policy. Trend toward decentralization. 1988 Constitution provides that workers in firms of more than 200 employees have right to 1 elected representative to promote direct negotiations with employer. In 2000 mandatory conciliation commissions were instituted at company or municipality level. Individual conflicts of right must be processed in these bipartite stances before reaching labour courts.
Mexico	Centralization is achieved through a corporatist structure and union discipline. High state intervention. But negotiations are highly decentralized and uncoordinated.	The most important form of intervention is the recognition of unions by the State and the intervention in case of strikes. Most often unions outside the corporatist structure are not recognized and don't have the right to strike. Unions hardly negotiate autonomously and fill the obligation to negotiate via subscription of minimalist agreements. The State intervenes in conflict resolution through councils of conciliation and arbitration or by declaring strikes inexistent. The negotiation process is not strongly regulated, but it is integrated in the process of conflict resolution (normally through conciliation), in which state intervention is very strong.	Different kinds of unions allowed. Most of them are at company level. The union with majority of affiliates represents all workers. Agreements at industry level must be approved by the Ministry of Labour, but these are few, and many are being repealed. Tripartite negotiations and the <i>pactos sociales</i> (social pacts) have an integral role in the process of economic recover and adjustment, for they helped control wage increases below inflation.

Source: Adapted from O'Connell (1999). Data updated by Graciela Bensusán (Mexico), Hector Palomino and Cecilia Senen (Argentina), and Adalberto Cardoso and Lage (Brazil) as part of the comparative project Labour Regulations and Economic Performance in Latin America, coordinated by Graciela Bensusán, to whom I thank for permitting use of the data.

**Table 11**  
**Collective Bargaining Systems in Argentina, Brazil and Mexico**

Country	In what type of unions can workers organize?	Is union affiliation voluntary? Dues?	Is there protection/promotion of collective activity?
Argentina	<p><b>A.</b> According to the juridical nature, can be with gremial <i>personeria</i> which grants automatic quotas and right to collective bargain; and with gremial inscription but without these attributes;</p> <p><b>B.</b> According to the level, unions, federations and confederations or centrals</p> <p><b>C.</b> According to the economic scope, can be by company, economic sector, economic activity or professions. Activity or sector prevail.</p>	<p>Membership voluntary but restricted by monopoly of representation. Contributions not mandated by law, but collective agreements can make them mandatory for non-members. Members decide their dues in assemblies or through union statutes.</p>	<p>The Constitution of 1994 guarantees elected and representative union leaders the freedom to carry out their union duties and employment stability. Law of 1988 expanded protections.</p>
Brazil	<p>Brazilian Workers organize by defined occupational categories or by economic sector in a given municipality. Law Doesn't provide for firm-based unions, but larger <i>sindicatos</i> often have representation at the firm level. Federations, confederations and centrals allowed. Centrals cannot sign collective agreements: this is the prerogative of unions, federations and confederations.</p>	<p>Membership voluntary, protected by Constitution. However, restricted because only 1 union represents all workers (affiliated or not) so non-affiliated can't find representation in other union. Contributions mandatory (union tax) for all employed workers, members or not. Members pay a monthly fee decided by assemblies and can take part in union elections</p>	<p>Law protects union leaders; once registered as board of director candidates, workers cannot be fired, and if elected cannot be fired until one year following term.</p>
Mexico	<p>Mexico 6 types: occupation, firm-based, multi-firm, industry, trade unions and university workers' unions. Also federations and confederations.</p>	<p>Freedom of association protected by Constitution, but limited by lack of pluralism in system and contradicted by allowing exclusion clauses and separation clauses in collective agreements that make employers hire only union members and fire members who disaffiliate. Requirement of 'active service' excludes temporary and self-employed workers. Dues determined by unions.</p>	<p>Exclusion and separation clauses in collective agreements undermine collective freedom. Union leaders protected by same provisions for workers fired with unjust cause. There are no specific sanctions for anti-union practices by employers. Employers must negotiate collective agreements if they employ union workers. If denied, strikes are permitted if decided by the majority of workers.</p>

(Continues)

Country	Is the negotiation process regulated?	Is there a duty to bargain? A right to information?	How is the level of negotiation determined?
Argentina	Yes, but not until 1988. Law defines active role for the State. Labour Minister initiates bargaining on request. Parties must form negotiating committee within 15 days. Parties can directly negotiate or under coordination of Labour Ministry delegate. The State must approve the agreements for them to hold.	Until 2001 the principle of ultra-activity prevailed (if the parties did not negotiate, the previous collective agreement holds). After 2001 the parties have 2 years to review these agreements. Parties have 15 days to form negotiating committee. Also parties have duty to bargain 'in good faith'.	Parties choose level of negotiations, since legislation favours unions by activity, most bargaining occurs at this level. If dispute over level exists, the state resolves by administrative decision, favouring lower level.
Brazil	Yes. There are negotiations at firm (resulting in collective contracts) or economic sector level (resulting in collective conventions). Conventions can only happen once a year. Contracts can happen any time. In strong unions, workers approve the results in assemblies, but this is not regulated by law.	Duty to negotiate once a year, but only 'good faith' requirement is that parties determine date. If party refuses to bargain, can file <i>dissidio</i> . Right to information is not regulated, but most unions negotiate these in agreements.	Level of negotiation is parties' choice. <i>Sindicatos</i> can bargain at the firm level or category level. Unions often pursue a bi-level strategy in which they negotiate floor adjustments at (mostly) municipal level and improve upon at firm level. Until mid 1990s unions have attempted to negotiate more at firm level to avoid salary limits imposed by government policy. After 1995 official wage policies were wiped out from private sector, holding only for the public enterprises and administration.
Mexico	Negotiation process of collective contract not regulated, though agreements must be revised at least every 2 years. Bargaining usually occurs in conciliation proceedings after workers exercise right to strike. Although it is customary for workers to call a strike in anticipation of revising a contract it is not required. Because bargaining and conflict resolution procedures are integrated (and state intervenes in conflict resolution) state intervention permeates the bargaining process. Negotiation of industry-wide legal contracts is highly regulated and state intervention is clearly defined.	Employers have duty to <i>contract</i> : if an employer employs unionized workers and they request a collective agreement, the employer must bargain and sign an agreement. Some employers avoid this by signing with a puppet union 'contracts of protection' which satisfy procedural requirements but offer no more than minimum standards set by law. Only way union can challenge this is to establish that it represents majority of workers and should have negotiated the agreement.	Firm level negotiations are common. Collective agreements: 1 union and 1 employer; law contracts: compulsory and cover all unions and employers in given category and territory -- not very common. Firm level internal regulations and direct negotiations common through mixed boards. Employers can decide whom to contract with, and the fact that contracts are not approved in assemblies create the possibility of simulated (fake) collective bargaining.

(Continues)

Country	Is the content of negotiations restricted?	Do contract terms expire with contract?	Can negotiations worsen contract terms or legal minimums?
Argentina	Between 1985-88 wages could not be negotiated because of public policies against inflation. From 88 to 91 wages could be negotiated again. From 1991 to 2001 negotiation of wages were subordinated to clauses of productivity. Only productivity gains could be passed to wages, and wage increases could not be passed to prices. Therefore, agreements would include incorporation of new technology, training systems, classification systems, linking productivity and wages, information and consultative mechanisms, etc. Later held that agreements would only be approved if took into account criteria of productivity, investment, new technology, and professional development.	Until 2001, provisions continue beyond the life of agreement if new contract not entered into ( <i>ultraactividad</i> ). Hence, unions were often reluctant to negotiate. 1990 decree revoked carry over provisions making it possible to negotiate new agreements for privatized state owned enterprises. 1995 law provides that collective agreement provisions specific to small businesses no longer have force 3 months after expiration unless negotiated otherwise. As of 1997, 85% of agreements had lapsed but clauses remained in effect due to <i>ultraactividad</i> . After 2001, <i>ultraactividad</i> was repealed.	A collective agreement can worsen benefits provided in a previous agreement.
Brazil	Maximum duration 2 years. Most of the content is already established by law since Constitution and labour codes noted for setting minimum standards for most conditions (workdays, holidays, vacations, wages). Collective agreements cannot negotiate worse conditions than those established by law, with some exceptions. 1988 constitution allows the negotiation of working hours and nominal wages; legislation approved that instituted part-time jobs, bank of hours, temporary suspension of contract for qualification and other measures.	Contractual clauses can be renegotiated every one or two years, and in the 1990s many important unions had to negotiate the loss of major fringe benefits conquered in the 1980s in exchange for job security. But at courts prevails the interpretation of the ultra-activity clause.	1988 Constitution provides that salaries and workday can only be reduced through collective negotiation and not through labour courts. Only through mutual agreement can parties reduce or revoke benefits they have established in prior contracts.
Mexico	Law requires that collective agreements include names, addresses of the employers, the businesses and establishments it covers, its duration, the work day schedule, leave, vacation, salaries, training of personnel. Only critical element in reality is salaries. Can also include formation of mixed boards, and separation and exclusion clauses.	Collective agreements terminated by mutual consent, at expiration of job, or by firm death. If no petition to revise, agreement extended for period equal to original term. Law Contracts end by mutual consent or failure to agree to revise. Appears that provisions of Collective agreements continue after they expire unless revised b/c provisions are incorporated into individual contracts.	No contracts can reduce benefits established by law. Collective agreements cannot negotiate worse conditions than those in existing contracts, but employers can petition to revise agreements to worsen benefits upon expiration. In economic conflicts, conciliation and arbitration boards can reduce personnel, salaries, work conditions as long as meets legal minimum standards. In practice, unions have accepted important drawbacks in collective bargaining.

(Continues)

Country	Is there pluralism of representation?	Can workers represent themselves in negotiations?	Who is covered by collective agreements?
Argentina	No, system euphemistically characterized as ‘union pluralism with unitary representation’ but state grants <i>personería gremial</i> (PG) which confers monopoly on bargaining, strikes, administering social security programs, and political processes. The ‘most representative’ criteria criticized as not very objective since data on union membership is self-proclaimed. Also, ‘most representative’ union may be ‘most representative’ at the macro level, while another union may be ‘most representative’ at the firm level.	No, union with <i>personería gremial</i> represents affiliated and nonaffiliated workers. Constitution guarantees <i>union’s</i> right to collective bargaining.	If agreement approved then covers all workers in area of signatory union, binding on all respective employers. If not, employer decides if covers non-affiliated workers
Brazil	No, while more than 1 union can exist in a given professional category, only 1 has representative power. Criteria for most representative union: number of members, social welfare services provided, value of property and assets. Nevertheless, there is strong competition in the union market. There are unions of sector and profession, and the latter actually pulverize the representation of workers. For instance, there is a single metal workers union in the city of São Paulo, but there are more than 200 unions of metal workers professionals (e.g. assemblers, painters, drillers).	Rarely. 1988 Constitution affirmed that collective bargaining can only be conducted through unions (though employers can represent themselves in firm agreements). However, if no union or federation or confederation exists to represent unions they can represent themselves. 1988 Constitution moved towards direct negotiation by providing that workers of any enterprise with more than 200 employees have right to 1 elected representative to promote direct negotiation with employer.	Collective <i>conventions</i> cover all workers in corresponding profession or sector and all firms in the economic category in the geographic area. Collective <i>agreements</i> only cover the firm(s) in which the workers pertain to the professional category of the signatory union, though employers generally extend provisions to non-member workers of the same profession.
Mexico	No. Union with majority signs collective agreements, has exclusive representation in firm. If more than 1 union (of same type or different levels) one with more members negotiates. Guild unions can negotiate jointly or with other types of unions. Employers have large margins of maneuver to choose with what union to negotiate. If worker do not agree, they must initiate a painful process for loss of titularity. This regimen is the basis for the simulation of collective bargaining and the subscription of the so called ‘protection contracts’ to employers.	Workers cannot represent themselves in collective bargaining agreement. Though they can enter into negotiations with employer, the agreement doesn’t carry right to strike.	Collective agreement is extended to union’s members and current and future workers of signing employer. Law contracts are compulsory to all unions (and workers) and employers in corresponding category.

(Continues)



Country	What are the conditions for a legal strike?	How are strikers treated?	What about strikes in public services?
Argentina	Strike must be carried out according to the statutes of striking union (which must have <i>personería gremial</i> ), must be intended for admissible purpose (not political), and have exhausted mandatory conciliation. Constitution guarantees this <i>union</i> right.	Strikers can't be replaced, unless strike judged illegal in which case strikers can return to work. Strikers not paid unless strike is legal and employer provoked strike.	1990 right to strike in public sector regulated. Minimum level of essential services (services whose total or partial interruption would put in danger the life, health, liberty or security of individuals) guaranteed by arrangement of the organization or labour minister. If not provided, mandatory arbitration.
Brazil	1989 strike law replaced concept of illegal strike with the 'abusive strike', in which case workers can be fired. Strikes allowed when negotiations in deadlock and parties haven't resorted to arbitration. 48 hrs notification to employer (72 hrs if essential services.) After <i>dissidio</i> is issued, strike is considered abusive. 1988 Constitution established the right to strike as a <i>workers'</i> right.	Strikers can't be replaced or fired during the strike, unless strike ruled 'abusive'. 1989 law states that during strike, employment contract is suspended - interpreted to mean employers don't remunerate workers during strike.	1988 Constitution granted public employees right to organize and strike (except military). 1989 strike law defined essential services and made workers' and employers' unions responsible for delivery of minimum services. Authorities could initiate a <i>dissidio</i> if min services not provided. 78 hrs notice required. No economic act can violate or constrain fundamental rights and guarantees. There is no strike law for public servants.
Mexico	Conciliation and arbitration boards can declare strikes 'nonexistent' unless strike claims legal purposes (to achieve balance between forces of production, celebrate collective or law contract, demand fulfilment of contract, revise salaries, fulfil profit-sharing); is supported by majority employees; presents petitions to employer via authority establishing terms of strike. Declared illegal if majority workers execute violent acts, in times of war, or continue to strike after declared 'non-existent'. Union must give 6 days notice (10 days for public services). The Constitution guarantees workers' right to strike but in practice it is a <i>union</i> right.	If strike legal then all employment contracts suspended. However, strikers can't be fired or replaced. They can quit strike at any time. With the acceptance of employer, according to the law, workers are not paid replacement wages during strike unless board rules conflict is imputable to the employer. In practice 50% of the salaries are normally paid for. Workers are entitled to perform emergency tasks during strikes.	Strikes in public services limited to general and systematic violation of rights granted by Constitution. Must be supported by 2/3 <i>dependencia</i> and declared legal by <i>Tribunal Federal de Conciliación y Arbitraje</i> . Essential services not specifically addressed in law, but need 10 days notice if strike in specific services, also maintenance of services during strike in enterprises dealing with ships, airplanes, trains, hospitals, sanatoriums, clinics, etc. State has intervened via administrative procedure, declaring bankruptcy, alleging crime of social dissolution to striking workers, declaring confiscation.

(Continues)

Country	Can the state legally derogate collective agreements?	Is there conciliation or arbitration of conflicts?	Does the state intervene in conflicts?
Argentina	1996 Decree empowers Labour Minister to revoke in part or completely the approval of an agreement. 1994 Constitution recognizes Executive power to rescind by decree collective agreement for reasons of economic emergency. 1990 decree made it obligatory to rescind all collective agreements in the public services as a prior step to renegotiating them.	Conciliation of economic conflicts is mandatory. Labour ministry is active throughout. 15 days for resolution. Some collective agreements establish conciliation procedures including the convening of Paritary Commissions presided by Labour Ministry officer. Parties can agree to voluntary arbitration if conciliation fails. Must abide by arbiter's decision (usually from the Labour Ministry).	Labour Ministry can order conflict back to status quo ante, can impose mandatory arbitration if collective conflicts affect economic activity, productivity and national development and progress or the welfare of the community; or if minimum level of essential services not provided. This is an emergency measure rarely used. Labour Ministry can call a strike illegal or oblige parties to suspend strike for negotiation for 15 to 20 days.
Brazil	The 1967 labour codes declared invalid any clause of a collective agreement or convention which, directly or indirectly, goes against any disciplinary rule or prohibition of the government's economic policy or concerning the wage policy in force. Debated whether Constitution annulled these provisions by prohibiting interference of the labour authorities into collective autonomy. Nonetheless, in Sept. 1994, Minister of Labour refused to approve the wage increases negotiated in the Sao Paulo automobile industry, because they infringed upon objectives of the economic adjustment program.	In case of collective <i>dissidio</i> (demand to the labour courts) arbitration is mandatory. A <i>dissidio coletivo</i> (claim) triggers mandatory conciliation in the Boards of Conciliation and Arbitrage. If no agreement reached, this board pronounces judgment which can be appealed to Regional Labour Court then Superior Labour Court. 1988 Constitution for first time provides for private voluntary arbitration to substitute the <i>dissidio</i> process but rarely used. Also pronounced that Court's decision must respect collective agreement provisions in addition to the laws and respect the managing autonomy of the firm. As to individual conflicts, in 2001 the Previous Commissions of Conciliation was instituted with representatives of workers (normally unions) and employers and a third party named by them. Conflicts must first be mediated in these mechanisms before proceeding to labour courts.	State can initiate a <i>dissidio process</i> to end a dispute if minimum level of essential services not provided. 1988 Constitution annulled states' power to convene parties to <i>mesas redondas</i> if there was a delay in collective negotiations or if one party refused to negotiate. 1992 Decree conferred this mediation function to the Labour Ministry but only upon request of the parties. Article 623 of labour codes prohibits a court from issuing a decision conflicting with the state's economic policy.
Mexico	Administrative authority determines whether contract should be negotiated and must approve contract for it to be valid. Not clear whether conciliation and arbitration boards can reject agreements submitted.	Conciliation and arbitration (C&A) boards have equal representation of workers, employers and chaired by govt. Workers' union may submit conflict to arbitration before these boards. Employer may refuse to submit to arbitration. Arbitration of economic conflicts before C&A boards similar to trial with stages of fact gathering, hearings, and submission of evidence. C&A board can increase or decrease the number of persons employed, the daily and weekly hours of work and wages, and more generally, alter conditions of employment in the enterprise or establishment.	State has unlimited capacity to intervene in disputes which concern it, though not by law. Main forms of intervention: through conciliation and arbitration boards, by declaring strike 'non-existent,' via requisita or administrative intervention in public services, or declaring striking entity in bankruptcy to terminate labour contracts of strikers. C&A boards have budgetary and political dependence on state, so often vehicle for state intervention in collective labour relations.
Source: Adapted from O'Connell (1999). Information updated by Graciela Bensusán (Mexico), Hector Palomino and Cecilia Senen (Argentina), and Adalberto Cardoso and Telma Lage (Brazil) as part of the comparative project 'Labour Regulations and Economic Performance in Latin America', coordinated by Graciela Bensusán, to whom I thank for permitting use of the data.			