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Industrial relations and collective bargaining: Argentina, Brazil and Mexico compared

Adalberto Cardoso
Julián Gindin

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Foreword

This working paper is part of a comparative study examining industrial relations developments in different countries and regions of the world. The paper provides a comparative analysis of industrial relations in Argentina, Brazil and Mexico. All three countries have distinct political, institutional and economic backgrounds, yet they share some important features, such as the central role that the State plays in regulating the labour market and working conditions. This does not mean that collective bargaining is not important where it exists; only that its role tends to be limited to legally defined constituencies.

Neoliberal reforms in the three countries (the 1980s in Mexico, and the 1990s in Brazil and Argentina) had a profound impact on employment relations and collective bargaining. Deregulation resulted in dramatic increase in atypical contracts, including temporary employment and service contracts. The increase in subcontracting arrangements reduced the bargaining power of trade unions and the quality of collective agreements. While collective bargaining in Mexico and Brazil had always been relatively decentralized, in Argentina, the reforms also resulted in the decentralization of a previously centralized collective bargaining structure. In all three countries, an increase in informal employment reduced the coverage of collective bargaining.

In recent years, political and economic developments resulted in attempts to reverse these trends, particularly in Argentina and Brazil. In Brazil, the Labour Court placed limitations on subcontracting, and in both countries, unions sought to regulate subcontracting through collective agreements or to have the terms of those agreements extended to all workers. For example, in Argentina, the explicit promotion and coordination of collective bargaining by the government and the growth of registered salaried employment led to the reinvigoration of industry-level bargaining, which helped to protect the conditions of work of subcontracted workers.

The changes in Mexican industrial relations have been less dramatic compared with those in Argentina and Brazil, yet developments over the past five years point to a more autonomous organized labour movement, with the promise of improving worker voice and autonomous industrial relations.

This working paper is a welcome contribution to improving the understanding of industrial relations in Latin America for the ILO and its constituents. It has the added interest of covering the industrial relations traditions of the three largest economies in the region and provides a good basis for comparing developments in other parts of the world, particularly in emerging economies.

I am grateful to Adalberto Cardoso and Julián Gindin from the Rio de Janeiro Graduate Research Institute (IUPERJ) for undertaking this study and commend the report to all interested readers.

September 2009

Tayo Fashoyin
Director,
Industrial and Employment
Relations Department

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Abbreviations

CEACR	Committee of Experts on the Application of Conventions and Recommendations (ILO)
CFA	Committee on Freedom of Association (ILO)
EAP	economically active population
ECLAC	Economic Commission for Latin America and the Caribbean
GDP	gross domestic product
ILO	International Labour Organization
IR	industrial relations
IMF	International Metalworkers' Federation/International Monetary Fund
ISI	import substitution industrialization
KLIM	Key Indicators of the Labour Market (ILO)
MW	minimum wage
NAFTA	North American Free Trade Agreement
NGO	non-governmental organization
OIT	Organización Internacional del Trabajo (International Labour Organization)

Argentina

CGT	Confederación General del Trabajo (General Confederation of Labour)
CNTA	Comisión Nacional del Trabajo Agrario (National Commission of Agrarian Work)
COEMA	Confederación de Obreros y Empleados Municipales de la Argentina (Argentine Confederation of Municipal Workers and Employees)
CTA	Central de Trabajadores Argentinos (Argentine Workers Center)
CTERA	Confederación de Trabajadores de la Educación de la República Argentina (Education Workers' Confederation of the Argentina Republic)
CTIO	Comisión Tripartita de Igualdad de Trato y Oportunidades entre Varones y Mujeres en el Mundo del Trabajo (Tripartite Commission for Men and Women's Equality of Opportunities and Treatment in the World of Work)
EIL	Encuesta de Indicadores Laborales (Labour Indicators Survey)
ETE	Encuesta de Trabajadores en Empresas (Workers in Companies Survey)
FAECYS	Federación Argentina de Empleados del Comercio y Servicios (Argentine Federation of Commerce and Services Workers)
FOETRA	Federación de Obreros y Empleados Telefónicos de la República Argentina (Argentine Federation of Telephone Workers and Employees)
INDEC	Instituto Nacional de Estadísticas y Censos (National Institute of Statistics and Census)
LAS	Ley de Asociacíones Sindicales (Workers' Unions Act)
LFE	Ley de Fomento De Empleo (Employment Promotion Law)
LNE	Ley Nacional de Empleo (National Employment Law)
SCC	Sindicato de Choferes de Camiones (Truck Drivers' Union)

SSPTyEL	Subsecretaría de Programación Técnica y Estudios Laborales (Deputy Secretary of Technical Planning and Labour Studies)
UIA	Union Industrial de Argentina (Argentine Industrial Union)
UOM	Unión Obrera Metalúrgica (Metalworkers' Union)
UTHGRA	Unión de Trabajadores del Turismo, Hoteleros y Gastronómicos de la República Argentina (Hotel and Gastronomic Workers' Union of Argentina)

Brazil

ABC	South Industrial Zone of São Paulo Metropolitan Region
ABIQUIM	Associação Brazileira da Indústria Química (Brazilian Association of Chemical Industries)
ANFAVEA	Associação Nacional dos Fabricantes de Veículos Automotores (National Association of Auto Makers)
BANERJ	Banco do Estado do Rio de Janeiro (State Bank of Rio de Janeiro)
BANESPA	Banco do Estado de São Paulo (State Bank of São Paulo)
BNDES	Banco National de Desenvolvimento Econômico e Social (National Economic and Social Development Bank)
CEAPAE-SP	Sindicatos dos Ambulantes e Centro de Apoio aos Pequenos Empreendimentos de São Paulo (Union of *Ambulantes* [roving street vendors] and Support Centre for Small Enterprises in São Paulo)
CGBT	Central Geral dos Trabalhadores do Brazil (Brazilian Workers' General Central Federation)
CGT	Confederação Geral dos Trabalhadores (General Workers Confederation)
CIPA	Comissão Interna de Prevenção de Acidentes (Internal Commission for Prevention of Accidents)
CLT	Consolidação das Leis do Trabalho (Consolidation of Labour Rights)
CNA	Confederação Nacional da Agricultura (National Confederation of Agriculture)
CNAS	Conselho Nacional de Assistência Social (National Social Assistance Council)
CNB	Confederação Nacional dos Bancários (National Bank Workers Confederation)
CNC	Confederação Nacional do Comércio (National Confederation of Commerce)
CNE	Conselho Nacional de Educação (National Education Council)
CNES	Conselho Nacional de Economia Solidária (National Council for a Unified Economy)
CNF	Confederação Nacional das Instituições Financeiras (National Confederation of Finance Institutions)
CNI	Confederação Nacional da Indústria (National Confederation of Industry)
CNPS	Conselho Nacional de Previdência Social (National Social Security Council)
CNS	Conselho Nacional de Saúde (National Health Council)
CNT	Confederação Nacional dos Transportes (National Confederation of Transport)

Codefat	Conselho Deliberativo do FAT (Deliberative Council of FAT – see below)
Condraf	Conselho Nacional de Desenvolvimento da Agricultura Familiar (National Council for Rural Development)
CONFENEN	Confederação Nacional dos Estabelecimentos de Ensino (National Confederation of Schools)
Consea	Conselho Nacional de Segurança Alimentar (National Council of Food Security)
CONTAG	Confederação Nacional dos Trabalhadores na Agricultura (National Confederation of Agricultural Workers)
CONTEC	Confederação Nacional dos Trabalhadores em Empresas de Crédito (National Confederation of Workers in Credit Companies)
CONTRAF	Confederação Nacional dos Trabalhadores do Ramo Financeiro (Finance Sector Workers' Federation)
COPARMEX	Confederación Patronal de la República Mexicana (Employers' Confederation of the Mexican Republic)
CUT	Central Única dos Trabalhadores (Unique Workers' Central)
DIEESE	Departamento Intersindical de Estatísticas e Estudos Sócio-Econômicos (Inter-union Department of Socio-economic Studies and Statistics)
DNB	Departamento Nacional dos Bancários da CUT (CUT National Bank Workers Department)
Embrapa	Empresa Brasileira de Pesquisa Agropecuária (Brazilian Company for Agrarian Research)
FAT	Fundo de Amparo ao Trabalhador (Workers' Support Fund)
FENABAN	Federação Nacional dos Bancos (National Federation of Banks)
FGTS	Fundo de Garantia por Tempo de Serviço (guarantee fund per time of employment)
FIESP	Federação das Indústrias do Estado de São Paulo (Federation of Industries of the State of São Paulo)
FNT	Fórum Nacional do Trabalho (National Labour Forum)
FS	Força Sindical (Union Power)
FUP	Federação Única dos Petroleiros (Unique Oil Workers' Federation)
IBGE	Instituto Brazileiro de Geografia e Estatística (Brazilian Institute of Geography and Statistics)
INPC	Índice nacional de preços ao consumidor (national consumers' price index)
MASP	Movimento dos Ambulantes de São Paulo (Movement of the Ambulant Workers of São Paulo)
MPT	Ministério Público do Trabalho (Public Labour Attorney)
MST	Movimento dos Trabalhadores Rurais Sem Terra (Landless Workers' Movement)
MTE	Ministério do Trabalho e Emprego (Ministry of Labour and Employment)
NCST	Nova Central Sindical de Trabalhadores (New Workers' Central Federation)
PDT	Partido Democrático Trabalhista (Labour Democratic Party)
PEC	Projeto de Emenda Constitucional (Constitution Amendment Project)
PLR	Participação nos Lucros e Resultados (participation in profits and results)

PMDB	Partido do Movimento Democrático Brazileiro (Brazilian Democratic Movement Party)
PNAD	Pesquisa Nacional por Amostra de Domicílios (national household sample survey)
PSE	Pacto de Solidaridad Económica (Economic Solidarity Pact)
PT	Partido dos Trabalhadores (Workers' Party)
RAIS	Relação Anual de Informações Sociais (Annual Report of Social Information)
RJU	Regime Jurídico Único (public servants' Special Statutory Regime)
SDS	Social Democracia Sindical (Social Democratic Union)
SENAC	Serviço Nacional de Aprendizagem Comercial (Commerce Apprenticeship National Service)
SENAI	Serviço Nacional de Aprendizagem Industrial (Manufacturing Apprenticeship National Service)
SESC	Serviço Social do Comércio (Commerce Social Service)
SESI	Serviço Social da Indústria (Manufacturing Social Service)
SINCVASP	Sindicato do Comércio de Vendedores Ambulantes de São Paulo (Commercial Union of the *Ambulantes* Vendors of São Paulo)
SINDICISP	Sindicato dos Camelôs Independentes de São Paulo (São Paulo Independent *Camelôs* Union)
Sindipetro	Sindicato dos Petroleiros (Oil Workers' Union)
SINFAVEA	Sindicato dos Fabricantes de Veículos Automotores (Car Makers' Union)
SINPESP	Sindicato dos Permissionários Em Pontos Fixos nas Vias e Logradouros Públicos do Município de São Paulo (Union of Street Licensees of the São Paulo Municipality)
Sintein-CUT	Sindicato dos Trabalhadores da Economia Informal (Union of Informal Economy Workers)
SIQUIRJ	Sindicato das Indústrias de Produtos Químicos do Rio de Janeiro (Union of the Industry of Chemical Products of Rio de Janeiro)
SIRT	Sistema de Informações sobre Relações de Trabalho (System of Labour Relations Information)
SIS	Sistema de Informações Sindicais (Union Information System)
SMABC	Sindicato dos Metalúrgicos do ABC (ABC Metalworkers' Union)

Mexico

CAINTRA	Cámara de la Industria de Transformación (Chamber of Manufacturing of Nuevo León)
CANACINTRA	Cámara Nacional de la Industria de Transformación (National Chamber of Manufacturing)
CONCAMIN	Confederación de Cámaras Industriales (Confederation of Manufacturing Chambers)
CONCANACO	Confederación de Cámaras Nacionales de Comercio, Servicio y Turismo (Confederation of National Chambers of Commerce, Services and Tourism)
COPARMEX	Confederación Patronal de la República Mexicana (Employers' Confederation of the Mexican Republic)
CROC	Confederación Revolucionaria de Obreros y Campesinos (Revolutionary Confederation of Peasants and Workers)

CROM	Confederación Regional de Obreros Mexicanos (Regional Confederation of Mexican Workers)
CT	Congreso del Trabajo (Labour Congress)
CTM	Confederación de Trabajadores Mexicanos (Confederation of Mexican Workers)
ENESTyC	Encuesta Nacional de Empleo, Salarios, Tecnología y Capacitación (National Employment, Wages, Technology and Skilling Survey)
ENIGH	Encuesta Nacional de Ingresos y Gastos de Hogares (National Household Income and Expenditure Survey)
ENOE	Encuesta Nacional de Ocupación y Empleo (National Survey of Employment and Occupation)
FAT	Frente Auténtico del Trabajo (Authentic Labour Front)
FEDESSP	Federación Democrática de Sindicatos de Servidores Públicos (Democratic Federation of Public Servants' Unions)
FNUAS	Frente Nacional por la Unidad y la Autonomía Sindical (National Front for Labour Unity and Autonomy)
FSM	Frente Sindical Mexicano (Mexican Union Front)
FSTSE	Federación de Sindicatos de Trabajadores al servicio del Estado (State Service Workers' Unions' Federation)
INEGI	Institudo Nacional de Estadísticas y Geografía (National Institute of Statistics and Geography)
JFCA	Junta Federal de Conciliación y Arbitraje (National Conciliation and Arbitrage Court)
LFT	Ley Federal del Trabajo (Federal Law of Labour)
LFTSE	Ley Federal de los Trabajadores al Servicio del Estado (Federal Act on State Employees)
MACOELMEX	Manufacturera de Componentes Eléctricos de México (Mexican Manufacturers of Electronic Components)
PAN	Partido Acción Nacional (National Action Party)
PDT	Procuradoría de Defensa del Trabajo (Labour Prosecutor)
PRD	Partido de la Revolución Democrática (Democratic Revolution Party)
PRI	Partido Revolucionario Institucional (Institutional Revolutionary Party)
PROGRESA	Programa de Educación, Salud y Alimentación (Education, Health and Food Programme)
SICARTSA	Siderúrgica Lázaro Cárdenas-Las Truchas
SIEM	Servicio de Información Empresarial Mexicano (Mexican Entrepreneurial Information System)
SITIAVW	Sindicato Independiente de Trabajadores de la Industria Automotriz Volkswagen (Independent Union of Volkswagen Auto Workers)
SME	Sindicato Mexicano de Electricistas (Mexican Union of Electricity Workers)
SNTE	Sindicato Nacional de Trabajadores de la Educación (Education Workers' National Union)
SNTMMSRM	Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana (Mexican Republic National Mining, Metallurgy and Similar Workers' Union)
STPRM	Sindicato de Trabajadores Petroleros de la Republica Mexicana (Petroleum Workers' Union)

STPS	Secretaría del Trabajo y Previsión Social (National Secretary of Labour and Social Care)
SUTERM	Sindicato Único de Trabajadores Electricistas de la República Mexicana (Unique Union of Workers in Electricity)
TFCA	Tribunal Federal de Conciliación y Arbitraje (Federal Conciliation and Arbitration Court)
UNAM	Universidad Nacional Autónoma de Mexico (National Autonomous University of Mexico)
UNT	Unión Nacional de Trabajadores (National Workers' Union)

Introduction

The inclusion of the working classes in the social and political economy of Latin America was accomplished mainly (although not exclusively) through regulation of the labour market. The establishment of legal guarantees made workers visible to the State, gave them a voice in the public arena, offered them relief during unemployment and provided them (and their dependants) with a social security safety net, among other things. In Argentina, Brazil and Mexico, at least, it was this regulation that led to the inclusion of workers within the import substitution industrialization (ISI) model.

While the pervasiveness of the informal economy throughout Latin America means that the formal labour market has never included all workers, workers in the informal economy have embraced the real hope of being included in the State's regulatory framework. This *expectation* of inclusion has occasionally been met when traditionally high levels of job turnover have offered workers periods of formal employment. It is because of the effect of this expectation that the formal labour market and its regulation have become one of the most important (if not the most important) institutions of inclusion on the continent – certainly in Argentina, Brazil and Mexico.

In this context, industrial relations (IR) institutions, as mechanisms of inclusion, have helped to pave the way for the process of economic development, based on the ISI model and sponsored by variously authoritarian, populist or democratic States, as the case may be. Argentina, Brazil and Mexico (along with Peru and Venezuela) are typical cases of the strong symbiosis between economic development, on the one hand, and State control over the emerging social forces shaped by that development, on the other. Despite some important historical differences between the three countries, their IR systems are closely tied to the role the State played in shaping the nature, scope and direction of social, economic and political developments.

Historical overview

Beginning in 1917, in Mexico, the process of including the emerging working classes (and sometimes the peasantry) and consolidating the IR system was largely over by 1955 (when Juan Domingo Perón was removed from office by military coup in Argentina and a year after the death of Getúlio Vargas in Brazil). In each country, it took only 10–15 years to consolidate the legal and political framework in which capital, labour and the State would meet, negotiate and solve their conflicts in more or less authoritarian or adversarial ways, depending on the historical context.

This consolidated model of IR is sometimes called "social protection", implying that the State acts as mediator between labour and capital to ensure harmonious relations, protecting individual workers through legislation that guarantees them employment rights through, for example, barriers to dismissal or explicit tenure regulations. In fact, employment law in the three countries, as elsewhere in Latin America, was based on one overarching premise: job security (Cook, 1998: 4). Federal laws regulated collective labour relations and bargaining while giving unions political legitimacy and control over constituencies. For this reason, the main feature of the IR systems in the three countries was the fact that the law – not collective bargaining – played the major role in regulating relationships between the State, labour and capital. While collective bargaining and social dialogue were present, they tended to play a subsidiary role in regulating IR (with the partial exception of Argentina) – a model that, despite some change in the 1980s, still holds.

The IR systems in Argentina, Brazil and Mexico have been very stable over time, and this must be attributed to the fact that labour law is *constitutionalized*, helping to consolidate a series of organized actors interested in the reproduction of the constitutional order and instituting the public authority (or the federal government) as IR's most powerful actor. Mexico was the first country to inscribe the labour code in the federalist 1917 Constitution, followed by Brazil (1934) and Argentina (1949).

The three constitutions laid down:

(i) formal standards for collective bargaining, including the representation of interests and conflict mediation;

(ii) substantive rights related to working terms and conditions, including remuneration and health standards;[1] and

(iii) the role of the State as guardian, recognizing the weak position of workers in the capitalist economy and, at the same time, controlling the structure, actions and reach of trade union representation.

State regulations granted unions monopoly over representation in a jurisdiction (the firm in Mexico, the economic sector or industry in Argentina, and the municipality in Brazil). Unions were (and still are) financed by a compulsory tax charged on *all* workers in that jurisdiction, and workers did not need to be union members to benefit from collective bargaining agreements. At times, collective bargaining was displaced by political action and social services delivered to union members. In all three countries, the public authority strictly controlled strikes, but State control over union actions varied greatly over time. In general terms, it can be said that authoritarian regimes[2] applied restrictive laws and that democratic regimes disregarded them.

These provisions were a direct consequence of the compromises arising from the Mexican (1910) and Brazilian (1930) revolutions, while in Argentina, they stemmed from pressures exerted by the labour movement – by then an actor with important organizational capabilities, at least in the urban areas – and Perón's search for a social base for his political project. But in none of these countries were the constitutional provisions immediately applied in practice, because the State had neither the willingness nor the institutional mechanisms with which to ensure compliance. The practical application of the constitutionalized labour code thus became the subject of day-to-day conflict between labour and capital.

Thus while the labour law was instituted unilaterally by State authority in the three countries, it profoundly shaped the expectations and practices of both capital and labour over the course of the twentieth century. The law defined the issues and scope of most organized action in Brazil, Mexico and Argentina in such a way that trade union struggles were largely oriented toward enforcing existing laws. In this way, workers' identities were also built through the mediation of labour rights and within the bounds of their horizons – again, in different ways, depending on the country and time (French, 2004; De La Garza, 1990).

[1] Although varying among the countries, the regulations covered: working hours; the prohibition of night work for women and youth; a minimum working age; entitlement to one day off each week; special rights for women during and after pregnancy; the definition of a "minimum salary" based on the basic needs of a worker who is the head of a family; equal pay for equal work; salary protection; limits on overtime; the right to housing and schooling; employer responsibility for work-related accidents and diseases; minimum occupational safety and health standards; the right of association for workers and employers; the right to strike; tripartite bodies for conflict resolution; labour courts; compensation for unjust dismissal; and the non-renounceable character of labour rights.

[2] Vargas (1937–45) and the military regimes (1964–81) in Brazil; the military rule in Argentina in the second half of the 1950s and again in the 1970s; and throughout the twentieth century in Mexico.

Some of the main differences between the three countries are worth noting. In Mexico, with the 1929 institutionalization of the political party that would govern the country for seven decades, the Mexican political regime made unions and peasants' organizations its main base of political legitimacy and support. In 1938, the Central Federation of Mexican Workers (*Central de los Trabajadores Mexicanos*, or CTM) was legally incorporated into the structure of the Institutional Revolutionary Party (*Partido Revolucionario Institucional*, or PRI). This approach to the representation of interests survived many years of social and economic change in Mexican society, and until 1995 the members of most unions belonging to the Labour Congress (*Congreso del Trabajo*, or CT) – the most important central federation in the country – were obliged to join the PRI (Bizberg, 1998: 6). This meant that political mobilization via State control over trade unions was a key element in the formation of the Mexican State.

In Brazil, on the contrary, organized labour did not establish strong ties with political parties until at least the 1980s. Of course, the Communists controlled some important unions prior to 1930 and after 1945, and Getúlio Vargas returned to office in 1950 with the support of union leaders whom he helped to promote during the dictatorship years. Unions were also important actors during the Jango government (1961–64) in what the literature has identified as a populist political settlement.[3] But there has never been extensive or persistent party mobilization among Brazilian trade unions as there has been in Mexico and, to a much lesser extent, in Argentina in the post-Perón era. During the periods of dictatorship in Brazil, the State simply silenced union leaders.[4] The democratic environment opened the way for their organization as pressure groups or as social support for competing political parties.[5]

In Argentina, repression similarly prevailed under authoritarian regimes, in which at least part of the 1946–55 Perón term should be included. As Minister of Labour from 1943 to 1945, he removed communists, leftists, unionists and independent leaders from strategic trade unions. By 1946, these political ideologies had disappeared from the Argentine labour movement for all practical purposes (Bergquist, 1986: 161). After 1948, the General Labour Confederation (*Confederación General del Trabajo*, or CGT), created in 1930, was 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) to strengthen the internal cohesion of the labour movement, while reducing its autonomy; and

(ii) to grant the labour movement social and political recognition that had been previously unknown in Argentina.

After 1950, the CGT was used to take over non-Peronist unions. By 1954, the Argentine government had intervened in almost all of the country's largest unions, removing their leadership. But unlike the Mexican revolutionaries and (in part) Vargas in Brazil, Peronism – a movement deeply identified with the working class – was never institutionalized as a party; rather, its support base has always been the labour movement. Neither the military coup of 1955 nor any subsequent political force could therefore erase the Peronist character of the CGT. It was only the proscription of Peronism after 1955 that politicized the strong Argentine union structure, the identity of which was then torn between integration (a fight to legitimize the labour law) and resisting anti-union, anti-Statist or anti-nationalist governments (James, 1988).[6]

[3] The strongest argument in favour of the existence of populism in Brazil can be found in Weffort (1978). This interpretation has been revised in recent years (see French, 2004; Oliveira, 2002; Santana, 1998).

[4] We refer to Vargas' second period (1937–45) and to the period of military rule (1964–85).

[5] Brazil was democratic from 1945 to 1964 and after 1985.

[6] The same can be said about Brazil after the death of Vargas in 1954, which had a similar effect on union identity and ideology.

While these features made labour relationships in the three countries *formally rigid*, the specialist consensus has been that the regulations have always been flexible in practice in Brazil and Mexico (although less so in Argentina until the 1990s). This is mostly because employers could choose not to comply with the law, either because the costs of non-compliance were low or because State enforcement was flawed, or both.[7] Bensusán (1992) calls this system "corporatist flexibility", which allows for the adaptation of the entire system to different social and economic environments (including the ISI, the crisis of the 1980s, the neoliberal model of development of the 1990s and even its reform in the 2000s).[8]

In Argentina, the IR system remained largely unchanged until the beginning of the 1990s despite the harsh anti-labour actions of the military regime in the 1970s. The Mexican model began to change only in the 2000s. In Brazil, while the 1988 Constitution freed unions from State control and considerably expanded the constitutionalization of labour rights, making it harder to change labour relations regulation, significant changes came about only in the second half of the 1990s.

Neoliberal reforms of labour market institutions

The economic restructuring in the 1980s (in Mexico) and in the 1990s (in Argentina and Brazil), and institutional reforms in the latter two countries changed the face of labour relations and collective bargaining in the three nations. In Argentina, Carlos Menem passed important labour reforms in March 1991 with little resistance from the labour movement;[9] in Brazil, the main central federation, the Unique Workers' Central Federation (*Central Única dos Trabalhadores*, or CUT) positioned itself against Cardoso's economic plan. In the process, unions faced major political and institutional setbacks, failing to prevent the partial flexibilization of the labour code after 1998. In Mexico, while no changes were made to the constitutional provisions, non-compliance soared, making regulations less effective.

Changes in labour market regulations and in the system of collective bargaining in Argentina were profound, combining negotiated measures with State-sponsored legislation to create a flexible labour market and reduce social protection in many forms of labour contracts. During the first of three phases (1991–96), labour contracts were deregulated, with temporary contracts adopted, labour rights and regulations on job security reduced, and salaries connected to productivity gains negotiated. The 1991 National Employment Law (*Ley Nacional de Empleo*, or LNE) focused on extending formal labour contracts to the informal labour market, but the net result would be four new types of "atypical" contracts, with reduced labour rights and firing costs.[10]

[7] See Bensusan (2006).

[8] See also De la Garza (2003); Dombois and Pries (2000); Bizberg (1998); De la Garza (1990).

[9] There is consensus among the literature regarding the reasons. Firstly, the CGT was divided into two main factions in the beginning of the 1990s. Both were Peronist; the larger, pro-Menem. Secondly, the majority of Argentines supported the government's policies – especially privatization (Ranis, 1997: 390ff.). Thirdly, Menem tamed the hyperinflation that had impoverished workers in the 1980s, and which had disorganized the Argentine economy and society (Nelson, 1992: 13). According to Palermo (1994: 325), popular support for Menemism was "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".

[10] It is worth noting that the LNE provided that the minimum wage should be decided by a tripartite body, the National Council on Employment, Productivity, the Minimum Wage and Wage Adjustment (*Consejo Nacional del Empleo, la Productividad y el Salario Mínimo Vital y Móvil*), as part of broader policies to stimulate job creation and economic development. This meant that wages were a central pillar of the Argentine restructuring programme and were used as a justification of State power.

In the same period, social security reform saw the creation of private insurance funds for higher earning individuals and the restriction of the public system to lower pensions. In 1995, with unemployment rates reaching their heights (20 per cent), the 1995 Employment Promotion Law (*Ley de Fomento de Empleo*, or LFE) deregulated labour contracts further, introducing three new forms of contracts, all with low or zero social contributions. In the same year, the flexible measures were extended to small and medium-sized firms, stimulating collective bargaining at the firm level and reducing labour costs. Negotiation was also favoured by the Conciliation Law (*Ley de Conciliación*), which required attempts at private conciliation before allowing recourse to the labour courts.

In the second period (1998–2001), new regulations were introduced to reform the LNE and the LFE. The system of compensation for unfair dismissal was simplified, dismissal notice periods were reduced from 30 to 15 days and youth employment was promoted through apprenticeship contracts. In terms of collective bargaining, the monopoly of representation granted to unions with *personería gremial* (legal recognition) was maintained, but first- and second-degree organizations (unions and federations) could delegate negotiation power to local representatives, consecrating the decentralized collective bargaining process. Another important change in the bargaining system was legislation that gave local agreements precedence over the law as well as over broader collective conventions negotiated by unions or federations on issues such as working hours and vacations.

The third period (December 2001–) has been marked by social consultation and social pacts. Some flexibility measures have been reversed or annulled, while other protection mechanisms have been created. We will analyse these in depth in Part 1.

In Brazil, the changes were also important although not as extensive as in Argentina. As in Mexico, flexibility measures were introduced into day-to-day labour relations with little change to legislation.[11] By the end of 1994, a measure instituted workers' participation in profits, which flexibilized workers' pay (see Part 3). In 1995 the Cardoso administration denounced the International Labour Organization (ILO) Termination of Employment Convention, 1982 (No. 158), which set principles regarding dismissals preparing the field for both State reform and the privatization of State-owned enterprises. In 1997 a voluntary redundancy plan for public servants was made law. In 1998 another law introduced fixed-term contracts with reduced social rights: firms with fewer than 50 employees could hire up to 50 per cent more workers (25 per cent in the case of firms with 200 workers or more). However, in response to pressure from the labour movement, the law mandated that the hiring process be collectively bargained.[12]

Major reforms took place in 1998. The introduction of the "bank of hours" flexibilized working hours. Part-time work contracts were legalized, permitting up to 25 working hours per week, with fewer labour rights. Under a new temporary suspension of labour contracts, workers could have their contracts suspended for a maximum of 12 months[13] and receive sponsorship to a value equivalent to the unemployment insurance to participate in training programmes. At the end of this period, the employer could either hire the workers back or dismiss them.

[11] As Barros et al. (1997) and Barros and Mendonça (1996) pointed out, the Brazilian labour market is amongst the most flexible in the world in responding to economic shocks, both in terms of labour force reallocation and wage flexibility.

[12] The federal government expected that the new legislation would create new jobs, formalize informal labour contracts and make the labour market more efficient, especially for micro and small firms. But fixed-term contracts did not thrive. In December 2001, only 3.4 per cent of the formal work contracts were fixed-term, most of which were in the north-east region (figures calculated from the Ministry of Labour's Annual Report of Social Information [*Relação Anual de Informação Sociais*, or RAIS]).

[13] The original project established a maximum suspension of five months. The extension was introduced in response to a demand from the labour movement during the economic crisis of 1999.

While the system of collective bargaining has not faced major change, changes to the role of the judicial system in labour relations have been quite remarkable. Firstly, the so-called "classist judges" were removed from the conciliation courts (the courts of first instance).[14] Both judges and the renewed labour movement had long demanded their removal but employers' associations and corporatist unions that benefited from the Vargas provision had resisted.

Secondly, the Preliminary Commissions of Conciliation and Arbitration were created. These were bipartite voluntary bodies to hear individual workplace grievances in place of the labour courts, which are saturated by two million individual claims per year. The Commissions can convene groups of firms or even different categories of workers, and hence different unions. However, they have no direct impact on collective bargaining because their action is restricted to individual grievances.

Finally, expedited judgments were instituted for individual claims of amounts below 40 times the minimum wage (MW), which must be resolved in a single audience or, if the judges call for additional information, in a maximum of 30 days. While more than 60 per cent of the individual demands were decided in the first hearing after this measure was introduced, the number of claims remains high (more than 2 million per year).[15]

Two other important changes must be mentioned. First, the Cooperatives Law permitted the creation of employment cooperatives to offer services to firms without having to use strict work contracts (that is, those specifying social and labour rights). Salaries were normally below the legal MW and no unions were involved.[16] Second, wages were legally de-indexed from inflation, thus introducing the free negotiation of wages after almost 30 years of official wage policies. Collective bargaining in Brazil has included wage bargaining since at least 1978 and organized labour tried to set professional wages above the official standards. The abolition of these standards meant that unions set their own reference rate, which had important consequences for their collective action and the bargaining process.

In Mexico, economic reforms suffered some opposition from the traditional social dialogue partners after the crisis of 1994 and until at least 2000 – because of the official facade of labour and business union entanglement within the State apparatus. Presidents De La Madrid, Salinas and Zedillo committed to a process of economic restructuring and included Mexico in the North American Free Trade Agreement (NAFTA), with the full backing of the US government (especially after the crisis). But that process destroyed the painfully constructed ties between the protectionist regulation of the labour market – a model of industrialization centred on the internal market – and an authoritarian, corporatist political system (Bensusán, 2000: 386; Bizberg, 1999, *passim*).

While Mexico's labour code has not changed so far, and neither have the roles of the labour courts or of the Ministry of Labour in the regulation of unionism, the economic restructuring has been extensive. Soederberg (2001) called it a "passive revolution" because of its unilateral State design and because formal negotiation with social partners was part of the process of social and political legitimization. Within the new economic and political environment, and without changes in the formal apparatus of protection, this very apparatus contributed to shifting the balance of bargaining power against workers – excluding them from the benefits of economic development. Organized labour could not halt the process of impoverishment among its constituencies, but complied with policies that jeopardized its social power in order to maintain control over the union structure.

[14] These judges were a legacy of the Vargas corporatist era: representatives from labour and capital, nominated politically and with no professional expertise with which to assure tripartite representation.

[15] Data from Labour Justice (*Justiça do Trabalho*), available at http://www.csjt.gov.br

[16] See Lima (2002).

In terms of reform, then, changes in the labour legislation in both Argentina and Brazil were federal government initiatives; resistance from social agents was sometimes intense. Counting on a solid political majority in their respective congresses, both Menem and Cardoso resisted pressure from organized labour to reduce the scope of the approved legislation, which was based on the simplification of labour contracts and the reduction of job-centred social benefits. In Brazil, all that the labour movement could achieve was the inclusion of a requirement for collective bargaining when implementing flexible work contracts, and also participation in profits and the "bank of hours". But a weak labour movement is no guarantee of favourable agreements, as we will see in Part 3. In Argentina, the tradition of centralized bargaining was broken in the 1990s[17] and the reformed labour legislation did not refer to the role of unions in the application of new forms of contracts: organized labour could do little to limit the scope of the reform.

The socio-economic consequences of neoliberal reforms

While general opinion condemned neoliberalism as damaging to the social fabric, the broad economic trends of the 1990s did not support that censure. Graph 1[18] illustrates gross domestic product (GDP) since 1971 (to put the last 10–15 years in perspective) and shows that the 1980s had been a "lost decade" for Argentina and Mexico. In Brazil, although the GDP doubled from 1971 to 1980, it would take almost 30 years for it to do so again. In Argentina the 1990 GDP was almost the same as in 1974. In Mexico the economy had grown only 10 per cent since 1981 (although in Brazil, growth had reached 22.7 per cent). Per capita income did not increase in any of the three countries.[19]

It is thus apparent that neoliberal reforms in Argentina in 1990 stimulated the economy significantly, at least until 1998.[20] During this period the three countries' economies grew at mean annual rates of:

- for Argentina, 5.7 per cent (compared with 0.8 per cent in the 1980s);
- for Brazil, 2.7 per cent (compared with 1.7 per cent in the 1980s); and
- for Mexico, 3.5 per cent (compared to 1.8 per cent in the 1980s).

Certainly, all three economies grew faster during the period than during the "lost decade", but if economic growth is compared with population growth, in the context of the pressing needs of the countries' poorer citizens, it is clear that only in Argentina was it anything other than low. The 2000s have shown even better performance so far: over the last five years, growth in Argentina has reached 8.8 per cent per year, leaving Brazil (3.8 per cent) and Mexico (3.3 per cent) far behind. Apparently, the nation that most deeply revised the neoliberal proscriptions was better off than those that adopted them without challenge.

Along with economic growth, neoliberalism promised to tame inflation, and to reduce poverty and inequality as a direct consequence. Table 2 demonstrates that it fulfilled its promise – but not in a stable way – while Table 3 demonstrates that unstable economic growth was accompanied by high unemployment rates for men and women, except in Mexico. In Argentina and Brazil, women were increasingly worse off as the

[17] This is extensively analysed in Cardoso (2004).

[18] All graphs and tables referred to in this paper can be found in Annex 1.

[19] Brazilian per capita income in 1999 (around $6,500) was the same as in 1980, according to the source used for Graph 1 in Annex 1.

[20] This also happened in terms of productivity. As Graph 6 in Annex 2 shows, the GDP per hour worked increased 41 per cent from 1990 to 1999 in Argentina, compared to 20 per cent in Brazil (–2 per cent in Mexico), demonstrating only the minor impact of economic restructuring in these two countries.

reforms unfolded, although the large increase in gender gaps after 2002 largely resulted from a methodological change in the surveys (see Graph 4). It appears, then, that neoliberalism doubled (and sometimes tripled) previous unemployment rates and that the crisis did not help the situation of women, although for men things were much better in Argentina and Brazil. In these countries, the proportion of men searching for a job in 2007 was the same as that in 1998.[21] In Argentina, the proportion was the same as it was in 1990. Economic restructuring seemed to have a continuous negative effect on job creation in the two countries, even six or seven years after the demise of the strict neoliberal rationale.

Neoliberal promises also included reducing informality in the labour market as a consequence of the "sustained growth" that deregulation would bring about – but informality was not reduced at all.[22] Again, Argentina was most affected: Table 4 demonstrates a reduction of six per cent over ten years in salaried workers contributing to social security. In Mexico, the drop was 5.4 per cent during 1990–95 (considering only salaried workers), although in Brazil it was negligible. While protection rose again in the following period, by 2000, 42 per cent of working Brazilians and 55 per cent each of Mexicans and Argentineans still did not contribute to social security – meaning that they were invisible to the States' labour administration. So informality actually *increased* for salaried workers at the apex of the reforms in Mexico and Argentina – and while that trend reversed in the post-neoliberal era, it dropped no further than its formerly high figure.

While informality, unemployment and, most importantly, economic growth are key indicators of social and economic well-being, wages and income are even more important in a capitalist economy in which most goods and services are sold in the market. As noted elsewhere (Cardoso, 2008), during the military government in Brazil (1964–85), the MW was set at a low level and was a key capital accumulation mechanism. The MW set the wage standard, at least in formal employment, where 70 per cent of the employees earned twice the MW or less; in manufacturing – a sector that is representative of professional (or bargained) wages – and services, the figure reached 54 per cent (Sabóia, 1985: 50). There certainly seemed to be a clear connection between the restrictive, politically defined MW and other formal sector wages – a connection that contributed to setting all wages at a very low level.

However, during the Brazilian dictatorship, unions could not bargain professional wages or wage increases, which were defined by the military. In manufacturing, firms unilaterally decided the wage structure according to their production needs; the State defined changes in nominal value. The resurgence of unionism and the democratization process at the beginning of the 1980s changed the relationship between the MW and bargained wages in favour of the latter. In 1980, the mean wage in manufacturing was three times the MW value; in 1990, the difference soared to 5.7 times, both due to the increase in bargained wages and the decrease in the real value of the MW due to inflation. The MW and bargained wages seemed finally to be disconnecting and would separate further after the launch of the Real Plan for stabilization in 1994, but it was not until 2005 that Brazil's MW would equal its 1980 value (see Graph 2).

[21] Taking into account new methodology that, in 2007, included hidden unemployment.

[22] Contributions to social security can be used as a measure of informality, because they mean that workers are protected in the long run and that they are "visible" to the State. This measure is more comprehensive than that using domestic services, independent workers and small firms (the traditional ILO measure of "informality"). In Brazil, small firms (i.e. those with five employees or fewer) are only marginally "informal", because most of them register their workers, pay taxes, etc., while many non-registered salaried workers are in firms with six employees or more. By the same token, many independent workers contribute to social security, which means that they probably also pay taxes. These categories are neither informal nor illegal.

Military rule in the 1970s and inflation in the 1980s also eroded the real value of the MW in Argentina. When the *Convertibilidad*[23] started in 1990, the MW was only 40 per cent of its 1980 level (which was also set at a low value of around US$95 per month). Although Menem initiated a programme of recovery of the MW real value, it lasted only until 1994; the MW was then frozen at 80 per cent of its 1980 value, where it stayed until the 2001–02 crisis. The post-crisis governments again adopted aggressive MW policies, as Graph 2 illustrates, signifying the State's recognition of the importance of the MW as a reference for other salaries in the economy. The MW finally equalled its 1980 level in 2004.

In Brazil and Argentina, the MW set the standard for many other salaries in the economy, especially including those in the municipal and provincial public administrations, public services and domestic services. These salaries also ensured social security standards in Brazil,[24] including unemployment insurance and pensions. Thus, MW policies had a strong distributive impact, and recently contributed to a reduction in inequality in these two countries.[25] But in Mexico, the MW has simply stagnated at around 31 per cent of the 1980 figure– a meagre US$30 per month – making it unsurprising that the MW has had no correlation with other wages in the Mexican economy since 1995.

Graph 3 illustrates ratios comparing wages in manufacturing and the MW.[26] In Brazil from 1980 to 1995, except for the 1991 recession, the distance between bargained (or professional) wages and the MW increased from three to six times. After 1995, and as a consequence of the government's MW recovery policies, the gap steadily decreased and was predicted to fall below the 1980 ratio in 2008. This (as we will see in Part 3) was a direct result of the government's forceful MW recovery policy and not the efforts of organized labour in manufacturing.

In Argentina, however, the Menem administration forced the ratio of manufacturing wages and the MW below the 1980 level after 1994, where it has stayed. The erosion of organized labour's bargaining power was reflected in the erosion of bargained wages vis-à-vis the frozen MW. After MW recovery policies were implemented in 2003, the ratio fell sharply, with that of 2006 its lowest ever – and the lowest ever among all three countries.

In Mexico, the MW was set at an unrealistic level (deviating little from US$30 since 1990) and so does not act as a reference point for manufacturing.[27] In 1990 wages in manufacturing were six times higher than the MW – but they amounted to only US$200 per month. In 2006, the difference was nearly ten times: less than US$350 per month – a figure equal to 75 per cent of the mean wage in manufacturing in 1980. Wage restraint, then, was a key element of economic restructuring in both Argentina and Mexico. In Brazil the control of inflation resulted in generalized wage gains, but only until 1998.

Government controls over unions in Mexico, government–union coalitions in Argentina and productive restructuring in Brazil explain much of what happened to manufacturing wages during the 1990s. The same main causes can still explain most of the moves in recent years. But in Brazil and Argentina, collective bargaining has also played an important role in the upsurge in wages. when looking at correlations between wages in

[23] *Convertibilidad* (convertibility) was the name of the Argentinian plan of economic reform under Menem. Its main aims were one-to-one peso–dollar convertibility and that the currency available to the public could not exceed the country's reserves in US dollars.

[24] The Argentine 1991 LNE determined that the MW could not be used as an index for any other legal or conventional measure.

[25] For Brazil, see Barros et al. (2000); for Argentina, see Groisman (2008).

[26] The figures are expressed as the ratio of the mean annual wage in manufacturing and the real MW, in 2006 values.

[27] After 1995, the MW would lose its reference role to the other sectors as well. In 1995, 62.3 per cent of all workers earned two times the MW or less. In 2007, this proportion had shrunk to 38.7 per cent. We are grateful to Carlos Salas for these figures.

manufacturing and unemployment rates, it is evident that, in Brazil and Mexico, fluctuations in the former respond less to the latter than to the economic cycle[28] – meaning that there is space in which union strategies and collective bargaining can impact. Unions have apparently exerted greater bargaining power in the last five or six years in Brazil and Mexico, not because of tighter labour markets, but mostly because of firms' economic prosperity (see Part 3).

Income inequality also diminished in the three countries (see Table 5). Considering work-related income alone, in Brazil the distance between the richest and poorest fell between 1990 and 2006 by 14 per cent. In Mexico, where the changes have been more salient, there has been both a decrease in the proportion of wealth appropriated by the richest and an increase in the participation of the poorest: a drop of 26 per cent in the rich–poor ratio. A smaller drop of 11 per cent occurred in Argentina. The social programmes, the upsurge in the MW and the recent economic recovery explain most of this variation in Brazil and, arguably, in Argentina. Soares et al. (2006) suggested that a large proportion of the effect in Brazil was due to the *Bolsa Família* (Family Grant) and to the impact of MW policies on pensions and social security earnings. In Mexico, the Education, Health and Food Programme (*Programa de Educación, Salud y Alimentación*, or PROGRESA) was supposed to have reduced poverty after its introduction in 1997 (Skoufias and Parker, 2001), which must have affected the distribution of income. In Argentina, the impact was unclear but the strong recovery of MW purchasing power and the fact that, in 2003 and 2004, the State decreed general wage increases must have had some positive effect (Groisman, 2008) – despite the social security system's disconnection from the MW.

From 1990 to 2003, it is clear that the income transfer policies had a positive impact on poverty in the three countries (see Table 1). In Brazil the poverty rate dropped by 27 per cent between 1990 and 2006, while in Mexico it fell 36 per cent in 17 years. The most important decrease occurred in Argentina (64 per cent), but the comparison year was atypical because the *Convertivilidad* crisis was at its peak in 2002.

Thus neoliberalism seems to have improved some important social and economic conditions in the three countries, compared to the "lost decade". But the MW remained low, while informality and unemployment soared in Argentina and Mexico, and stayed at around 50 per cent of the workforce in all three countries. Low wages, unemployment and informality are synonymous with socio-economic insecurity, and trends emerging in the new millennium suggest that departure from a strict neoliberal rationale has helped to improve these indicators in each country in a faster and more equitable way.

The new political context

The new millennium punctured the Latin American neoliberal rationale. Argentina and Brazil (to a greater extent than Mexico) revised market-oriented reforms, all of which were made possible by important changes in the political arena: in Mexico, the erosion of an 80-year-long political regime; in Argentina and Brazil, the emergence of governments that were more responsive to organized labour and social movements.

In Mexico the PRI lost control of the Mexican Parliament in 1997. In 2000 an opposition president was elected for the first time since the Revolution. In 2006, for the first time since its creation in the 1920s, the PRI did not take part in the presidential election, which was headed by the National Action Party (*Partido Acción Nacional*, or PAN) and the Party of the Democratic Revolution (*Partido de la Revolución Democrática*, or PRD). The PRD candidate, López Obrador, although the clear favourite, lost the

[28] In fact, one would expect wages to fall with rising unemployment, as in Argentina. But this did not happen in Brazil or Mexico, although for different reasons, as will be seen later.

election but did not admit defeat, denouncing the process as fraudulent[29] and undermining the credibility of the representational regime.

With the inauguration of electoral competition, traditional union leaders tried to maintain their power and privileges in a political system in which their direct political influence within the State had been sharply curtailed, at least at the federal level. The PAN, winner of the 2000 elections, willingly accepted and supported union control over workers in the guise of respect for union autonomy and independence. The Fox administration of 2006 collaborated with the unions, which, although representing a small portion of the labour force, still represented and controlled workers in key private and public sectors.

The subordination of unions to the agenda of the Mexican economic and political elites was a key part of the PAN's strategies, resulting in the redefinition of government–union collaboration and in the repression of workers' democratic participation. For example, in previous administrations, government representatives on the Conciliation and Arbitration Board and other important tripartite bodies sometimes voted with the union representative; during the Fox *sexenio* (six-year term), they almost always voted with business interests and more strikes were declared "unauthorized" than ever before (Roman and Arregui, 2006). The Unique Union of Workers in Electricity (*Sindicato Único de Trabajadores Electricistas de la República Mexicana*, or SUTERM), supported Fox's programmes of privatization in exchange for the "respect of union institutions" – which suppression by traditional union leaders of grass-roots resistance against the illegal process of privatization was key to its implementation by the PAN.[30]

The consequence of these coalitions was that almost all of the CT affiliates supported the reform of the Federal Labour Law (*Ley Federal del Trabajo*, or LFT) and the marginalization of independent unions in the policy-making process (De La Garza, 2006a).[31] The resurgence of corporatism within a government elected to fight it confirmed that Mexican corporatism was a State – not a government – institution. The traditional unions negotiated with the PAN incumbents exactly as they did with the PRI. As time evolved, both the CT and the National Workers' Union (*Unión Nacional de Trabajadores*, or UNT) tried to maintain good relations with the Fox administration. So while there have been some divisions at the apex of the union structure in the last two or three years, there has been little change at the lower levels (companies, unions, conciliation and arbitration boards) – evidence of a resistance to change that is endemic in the Mexican IR system.

In Argentina (2002) and Brazil (2003), elections introduced new governments as a reaction to a decade or more of neoliberal reforms that had produced external fragility, a fiscal debacle, low economic growth, and high unemployment and inflation rates in Cardoso's and Menem's second terms – contrary to every single promise of the model. At the dawn of their governments, Presidents Néstor Kirchner and Luiz Inácio Lula da Silva (Lula) had to manage deep crises of confidence in their capacity to handle the near-bankrupt States.

Changes in Argentina started with the *Convertibilidad* plan fiasco in 2001, which led to the ascension of a new power coalition headed by a recessive Peronist faction. Against all odds, Kirchner was elected with only 22 per cent of the votes. As a result, he began his

[29] The PRD organized civil resistance and camped on the Zocalo in Mexico City for 48 days, demanding that the votes be recounted. Obrador held a National Democratic Convention, at which more than a million delegates acclaimed him as "Mexico's legitimate president".

[30] According to Roman and Arregui (2006), the privatization of electricity was unconstitutional, but the PAN (and the PRI before it) conceded private entrepreneurs the right to construct new electricity units all over the country, even in areas in which the State had its own units – some of which closed after the installation of the private companies. The SUTERM decided in favour of PAN's strategy at its National Congress in November 2004.

[31] According to De La Garza (2006a: 18), the proposed project assured labour market flexibility, imposed new requisites on collective contracts and the rights to strike, and did not change the provisions concerning union registration.

term in office in a weak position, but ended up surprising even the most sceptical observers. Confronting an economic and social crisis marked by unprecedented unemployment and half of the population below the poverty line, the Kirchner administration began by renegotiating the national debt. It then initiated reforms of the Supreme Court (which was controlled by Menem appointees), confronted the military (saying that "where there is crime, there must be punishment") and sustained Duhalde's most important social plan (*Plan Jefes y Jefas de Hogares*, or Heads of Households' Plan). In addition, it broadened the social base of Peronism to include not only organized labour but also new social movements linked to the unemployed,[32] human rights movements, and even a non-Peronist central federation, the Argentine Workers' Center (*Central de Trabajadores de la Argentina*, or CTA).

The Kirchner administration nurtured good relations with organized labour, based on long-lasting Peronist political identities and on a series of State policies focused on employment creation, collective bargaining, MW increases, the combat against *trabajo en negro* (unregistered work) and State recognition of the traditional union structure, along with the suspension of the 1990s reform agenda. In 2004, after nearly four years, the CGT was reunified under the leadership of its most prominent anti-Menem union leader, truck driver Hugo Moyano, with the support of the federal government.

In Brazil, Lula also had to fight an initial confidence deficit, but he did it by combining orthodox, unilaterally orchestrated, neoliberal rationale (central bank independence, fiscal austerity, inflation-targeting and high interest rates to secure the currency) with the reinstitution of consultation mechanisms. Social movements, organized labour and organized civil society were brought into play: the Landless Workers' Movement (*Movimento dos Trabalhadores Rurais Sem Terra*, or MST) became a strategic player in the Ministry of Agrarian Reform. The Ministry of Labour was handed to the union leaders and technicians of the CUT. The Ministry of Health was handed to factions of the sanitary movement,[33] which had been present at the very birth of the Workers' Party as one of its major middle-class factions (along with academic organizations of all sorts). Labour leaders were appointed to offices in strategic State-owned companies including Petrobras, Furnas (electricity production), the Bank of Brazil, the Brazilian Company for Agrarian Research (*Empresa Brasileira de Pesquisa Agropecuária*, or Embrapa) and Eletrobras (electricity).

Lula's eventual success was the result of economic growth, income distribution, poverty alleviation, inflation control, employment creation, and mass inclusion of the lower-middle classes and the poor through subsidized credit mechanisms. This meant that both the CUT and the Workers' Party lost legitimacy during the 2005–06 corruption crisis,[34] one of the major consequences of which was the successful effort to criminalize the labour and social movements as conspirators in a well-orchestrated assault on public resources. Public opinion perceived organized labour and its main leaders (Lula included) as incompetent, corrupt agents interested only in preserving their political agenda and perpetuating their power. Union leaders were condemned as unrepresentative bureaucrats, lacking legitimacy amongst their constituencies and focused only on their own individual survival. When Congress approved the funding of the central federations that represented

[32] In the second half of the 1990s, and particularly during the De La Rua government, a powerful social movement that identified neither with Peronism nor with the Justicialist Party had gained momentum: the *piqueteros* (picketers). Kirchner co-opted some of the most important *piqueteiros* organizations with a radical discourse designed to confront the conservative forces (see Svampa, 2008).

[33] The sanitary movement was an important social movement in the 1970s and 1980s which brought together physicians and biologists in the public health system who demanded better working conditions and better health services for the public. It was very militant and radical, and was one of the factions that created the Workers' Party in 1980.

[34] The crisis focused on the alleged bribing of Congress members by the federal Executive, using public resources. A parliamentary commission investigated the so-called *mensalão* (monthly bribe), and the evidence was sent to the Supreme Court and the Federal Police. Nobody has been prosecuted so far.

at least 100 unions in the five Brazilian regions with a 10 per cent share of the "union tax" in 2008 (see Part 1), poor public opinion fed on media images of leaders from all competing federations drinking imported champagne and eating caviar with the Ministry of Labour.

Yet despite the demonization of organized labour in Brazil, workers have never been as well represented in the federal administration structure as they are under Lula. In many important ways – and much as in Argentina – Lula's is a social movements' government. While the major economic issues (high interest rates, inflation targeting and fiscal surplus) are not open to political negotiation, almost every other policy issue (including those relating to the macro and industrial sectors) is decided within consulting mechanisms that include economic partners, social movements and organized civil society in a range of bipartite and tripartite consultation "chambers". While markets are formally free, State regulation imposes coordinated economic development policies[35] which have affected collective bargaining and social dialogue, albeit not to the point of a substantive change in the overall structure of Brazil's IR system.

[35] Including MW policies and economic growth measures favoured by the business cycle that fostered formal labour markets, and hence union action and collective bargaining, along with the Ministry of Labour's enforcement of the labour law as part of economic development policy.

1. The legislative and institutional framework

The IR legal framework in Argentina, Brazil and Mexico has changed in important ways, but in other ways it has remained inert. On the one hand, its constitutionalization helped to bind workers' interests in support of the constitutional order itself, the legal provisions of which became a subject of social conflict. On the other hand, the constitutional order sometimes proved flexible (in Brazil and Mexico, mainly because of non-compliance). The structurally authoritarian character of the whole system, especially in Brazil and Mexico, also gave the State a series of interventionist and repressive mechanisms that prevented opposition and left-wing parties from thriving within organized labour in a sustained way.

However, inertia is not synonymous with rigidity: after their institution in the first half of the twentieth century, revision and reform of the IR systems led to the institution of new regulations and protections, the derogation of others, the recognition of new actors and the proscription of others – all within one overarching rationale that remained unchanged until the 1990s. In fact, almost all of the changes introduced in recent years have expanded, not restricted, the legal protections.[36] While the impact of these recent reforms on the legislative and institutional framework has been more extensive in Argentina and Brazil than in Mexico, there are some significant differences from the previous framework that clearly illustrate the patterns of conflict between, and the opportunities opened (or closed) to, labour and capital.

Workers' associations

One of the consequences of the partial inertia of the core IR systems in these three countries is that the legal framework does not strictly assure freedom of association. While Argentina (in 1960) and Mexico (in 1950) ratified the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and their labour codes assure workers' rights *not* to join unions,[37] Brazil did not (although its federal Constitution also grants negative rights). In all three countries, however, a range of legal provisions restrict that very freedom, whether explicitly or more subtly.

The Argentine system recognizes the legal existence of two kinds of workers' association: the *inscriptas* (registered) unions and those that have *personería gremial* (trade union status). The law relating to the kind of association that the public authority will recognize as *inscripta* is flexible – but the *personería gremial* poses more difficult questions, as well as barriers to freedom of association. While the *personería* is the State's recognition of the most representative union (that with the most members in a particular constituency), in theory, a second organization may arise that will eventually be granted the *personería* if it represents a "considerably higher" number of workers than the first. Until that time, however, the second organization will not be permitted to take part in collective bargaining, nor will it have access to union quotas from its affiliates.

[36] An important exception is the 1966 Brazilian Unemployment Guarantee Fund Law (*Fundo de Garantia do Tempo de Serviço*, or FGTS), which ended the 1942 Job Security Law. According to the repealed provision, workers acquired lifetime stability after ten years in a firm; under the FGTS, they could "opt" instead for a system of compensation for unjustified dismissal – which option became mandatory, because companies would only hire workers who opted for the new system. Research in the 1980s estimated that the FGTS augmented job turnover by 20–30 per cent (Macedo and Chahad, 1985).

[37] In Argentina, unions are regulated by the Workers' Unions Act (*Ley de Associassiones Sindicales*, or LAS), No. 23.551 of 1988. In Mexico, unions are regulated by the LFT, enacted in 1931 and revised in 1970, although it maintained its original character.

The ILO has objected to some articles of the 1988 Workers' Unions Act (*Ley de Asociacíones Sindicales*, or LAS), which it perceives to be in contradiction of Convention No. 87. The problem is that *inscriptas* unions are deprived of their union rights. The ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) and its Committee on Freedom of Association (CFA) consider the criteria used to determine whether the competitor's representativeness is "considerably higher" to be *too* high. They have also argued that the question should be arbitrated by a third, independent party (and not the State), and that there are too many prerequisites for applying for *personería* in the case of craft or professional unions.[38] The CEACR and CFA have also objected to the fact that only unions with *personería* have the rights to tax exemption and to deduct union fees from pay cheques automatically. The law, the CFA argues, protects only *personería* union leaders. The CFA also objects to the fact that the government can administratively suspend the *gremial* inscription of a union, resulting in its legal disappearance (OIT, 2005).[39]

In Mexico, the IR system has two major jurisdictions: jurisdiction 'A', regulated by the LFT, and jurisdiction 'B', regulated by the Federal Act on State Employees (*Ley Federal de los Trabajadores al Servicio del Estado*, or LFTSE). Minor special regimes exist that regulate the army personnel, the Federal Institute of Elections and workers in foreign affairs. Province and municipality workers are also excluded from the rules of the main jurisdictions and they cannot bargain collectively. The CEACR has been particularly critical of the LFTSE, arguing that it does not comply with Convention No. 87. Provisions such as representation exclusivity and mandatory membership of a representative union are considered contrary to the Convention. The CEACR also criticized the right to strike as too restrictive, because the LFTSE states that two-thirds of the affected workers must approve strikes. In 1996 and again in 1999, the Mexican Supreme Court established that the "unique union" violated the principle of freedom of association and that the LFTSE did not bind decentralized administration agencies, thus granting this segment rights to organize collectively (Bensusán, 2000).

But it is in the trade union registration procedures that restrictions on freedom of association are clearest in Mexico. Federal jurisdiction unions must register with the National Secretary of Labour and Social Care (*Secretaría del Trabajo y Previsión Social*, or STPS), while a local jurisdiction union must register with its local Board of Conciliation and Arbitration. Bids to create a union accepted by the STPS are sent to the Federal Board of Conciliation and Arbitration (LFTSE, art. 367). Second- and third-level organizations (federations and confederations) are also registered at the federal-level STPS. Formally, the LFT will only deny recognition to unions whose goals contradict the labour code, or which present formal inconsistencies (LFTSE, art. 366). Once granted, recognition cannot be administratively cancelled unless the union ceases to comply with the law.

Despite these legal provisions, in practice, the administrative authority blocks the creation of a union if it considers it unreliable – that is, if the union cannot be controlled by government officials or by the employer (Bensusán and Alcalde, 2000: 143). The impact of State control continues beyond registration. A union must periodically send internal documents to the administrative authorities – including its goals, and its board's structure and composition – and these documents must be approved under a system known as *toma de nota* (note-taking) as a prerequisite for whatever juridical act a union undertakes, including collective bargaining or accessing union dues (Alcalde, 2006: 43). Finally, the

[38] If a craft or profession union applies for *personería* in an area in which there already exists an industry union, it is virtually impossible to reach a "higher" number of members and, thus, State recognition.

[39] The focus on freedom of association has gained momentum since the emergence of the Argentine CTA, which has pursued the right to bargain collectively and to represent workers since the mid-1990s. In 2004, the CTA demanded recognition as *personería gremial*, but the government has not yet granted it, despite objections from the CEACR.

representation monopoly is assured by the negotiation of exclusionary clauses in collective agreements, which, although not legally mandated, are widely used.

In Brazil, "soft" corporatism has institutionalized a union structure that is officially hierarchic (like that of Mexico), with confederations at the national level, federations at the province level and municipal unions. In practice, federations and confederations have a minor role in collective bargaining. The law permits only one union per industry or profession in a given jurisdiction, which must be at least the municipal jurisdiction; that union monopolises representation in the sector. Known as *unicidade sindical* (union unity), this practice means that workers are free to choose *not to join* a union, but *not free to refuse to be represented* by it: the municipal union will represent workers and deduct union dues directly from their pay cheques, whether they are union members or not.

Unlike in Mexico, however, Brazil's 1988 Constitution freed unions from State control, amending the 1939 provision according to which unions had to be approved by the Ministry of Labour, which had legal control over union affairs, including elections, budget, expenditures, etc. The Constitution provided that unions no longer had to register with the public authority; civil registration was sufficient – a provision that should hold for employers' associations as well. Nonetheless, because workers' and employers' organizations were still entitled to tax their constituencies (a legacy of the Vargas era), labour courts were overwhelmed by demands from unions overlapping territorially with existing organizations. In 2003, the Supreme Court established that it was for the Ministry of Labour to decide which union would represent which workers in which jurisdiction, and hence be entitled to the "union tax" and collective bargaining rights – effectively reversing the spirit of the Constitution, which had promoted freedom of association and union autonomy from State control. Since 2003, unions have again had to register with the Ministry of Labour, which has the power to "guarantee the monopoly principle".[40]

Collective bargaining

Argentina (in 1956) and Brazil (in 1952) have ratified the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98), although Mexico has not. But this does not mean that regulations in these countries have always been Convention-compliant: the ILO's CEACR only recently judged Argentina satisfactory, after restrictions on bargaining were finally removed in 2004, while in Brazil, the *unicidade* system continues to fall foul of many ILO Recommendations and legal provisions (or their absence) perpetuate restrictions on bargaining (as is the case in Mexico).

A pillar of the legislated IR model is that labour rights cannot be renounced; as a consequence, collective bargaining cannot set labour standards below the legal provisions of each of the three countries. In Argentina, this tradition was also incorporated into bargaining regulations, meaning that norms established by a high-level industry union cannot be derogated by lower-level agreements.[41] But in the three countries, the law and regulations are the *ex ante* normative framework of all existing and new individual contracts.

Collective bargaining is regulated specifically by the Collective Conventions Act in Argentina, while in Brazil and Mexico, it is provided for under the Consolidation of Labour Rights (*Consolidação das Leis do Trabalho*, or CLT) and the LFT, respectively. In

[40] The text of the Supreme Court decision is available online at:
http://www.dji.com.br/normas_inferiores/regimento_interno_e_sumula_stf/stf_0677.htm

[41] Reform in the 1990s tried to undermine these traditions, but failed to gain organized labour support and was strongly resisted The Labour Reform Act, No. 25.250 of 2000, instituted the possibility of multiple, disconnected bargaining levels, including firm–worker agreements mediated by firm-level representatives. The Law could not prove itself because of the 2001–02 crisis and was derogated in 2004.

Brazil, collective bargaining normally occurs on the "base date" (an agreed annual date on which conventions are revised and renegotiated) – but any party can demand revisions, at any time. Workers in a firm may also initiate a bargaining process without a union, but the municipal representative institution must be informed, and it will sign and register the resulting agreement. In the rare event that no union exists, the process will be taken up by the federation or ultimately by the relevant confederation. In Argentina, bargaining is initiated simply by one party notifying the other (employees or employers) and sending a copy of the notification to the labour authority. In all three countries, the parties have a duty to bargain, but in Argentina, the system assures that collective agreements remain in force even when expired and until they are renegotiated.[42] In Brazil, workers and employers *must* bargain at least every two years and the instruments may be renewed only once; otherwise they lose validity. In Mexico, they are automatically renewed once if not revised, but the law provides that wages must be renegotiated every year.

The usual practice in Argentina and Brazil is that an industry-level (Argentina) or municipal-level (Brazil) instrument is signed that sets the minimum standards, improvements to which can be negotiated at company level.[43] This means that company-level collective bargaining is permitted in the three countries, resulting in agreements negotiated by company-level workers' representatives and their employers, in the case of Argentina and Mexico, and by the municipal union and the firm, in Brazil. In Mexico, most bargaining occurs at the firm level,[44] while in Argentina, both legal and organizational traditions have favoured industry-level bargaining – although the system was highly decentralized in the 1990s. (Decentralization to the firm level was also characteristic of negotiations in Brazil after 1994.)

Pluralism is not guaranteed in any of the three countries, and again, this results from the incorporation of organized labour into the political and social order. These systems were based on the limitation of pluralist competition among trade unions, both to assure State control over existing unions and to guarantee stability for the projects of the established workers' leaders. The *personería gremial* in Argentina, the *unicidade* principle in Brazil and the exclusion clauses in Mexico all limited workers' freedom to choose representatives and to organize competing unions.

The LFT provides that, if more than one union is represented within a Mexican firm (for example, an industry and a company union), the most representative (in terms of number of members) must sign collective agreements. If this majority is lost at any time during the agreement's duration, the Board of Conciliation and Arbitration can declare an end to the agreement. While, in theory, if more than one craft union is represented, each one can conclude a separate contract, this is rare. The appearance of pluralism is, however, undermined by exclusion clauses (conceived in Mexican law as union security measures), which are common in Mexican collective contracts and which, surprisingly, have been accepted by the CFA.[45] The role of these clauses in restricting the right to organize and bargain collectively is clear: Mexican scholars agree that, in practice, their recurrent use

[42] This principle was derogated in the 2000 reform, but reinstituted in 2004.

[43] More recently, the CUT has tried to negotiate industry-level agreements encompassing a state or even the entire country – but its success is not yet clear.

[44] Exceptions are the *contrato-ley* (law contract), discussed below, and a few industry agreements.

[45] The CFA reported a recent case in which an exclusion clause was applied to workers of the Mexican Manufacturers of Electronic Components (*Manufacturera de Componentes Eléctricos de México*, or MACOELMEX) *maquila*. In its conclusions, the CFA noted "that these clauses are permitted under articles 395 and 413 of the [LFT] and that, according to the complainant, they are applied to the maquila industry notwithstanding the fact that the Supreme Court of Justice of the Nation has ruled on several occasions that they are unconstitutional". The CFA also requested "the Government to inform it of the implementation of the ruling of the Supreme Court of Justice concerning articles 395 and 413 of the [LFT]", included in the 340th Reports of the Committee on Freedom of Association, para. 246, presented at the 295th Session of the ILO's Governing Body (Committee on Freedom of Association, 2006).

has made them clauses securing *employers* against more representative workers' organizations.[46]

While employers' associations in Brazil and Mexico have the same legal status and are regulated by the same labour code as trade unions,[47] in Argentina, employers' associations are regulated instead by the Civil Code. This means that, in Argentina, the State actively defines the constituencies of employers' representatives in collective bargaining when necessary; in Brazil, such definition is automatic, or a natural result of the *unicidade* principle. For example, the ABC Metalworkers' Union (*Sindicato dos Metalúrgicos do ABC*, or SMABC), one of the most important manufacturing unions in Brazil, bargains with all metal-related firms in its territorial base.[48] All workers defined as "metalworkers" in these firms are represented by a single trade union; the number and scope of employers' representatives is defined by the Ministry of Labour, who distinguishes between activities such as metallurgy, metal-mechanic, car assembly, auto-parts and electric material, each of which is represented by a unique union. Similarly, if the employers' Car Makers' Union (*Sindicato dos Fabricantes de Veículos Automotores*, or SINFAVEA) calls for bargaining, this will automatically bind all unions that represent production and administration workers in the car-making industry (which in São Paulo can add up to 200 unions).

In Argentina, until the mid-1990s, the administrative authority approved agreements, based on their impact on the economy and consumers. In 1988, legislation authorized the federal government to suspend agreements based on economic emergency. The legality of strikes was also a prerogative of the State, which mediated the conciliation process and could impose mandatory arbitration. "Freedom of negotiation" and the "right to bargaining" were consequently absent – until 2004. In changes approved by the ILO's CEACR, while State approval became mandatory for industry-level agreements, the government could no longer interfere with what had been negotiated: its role was limited to inspecting an agreement's legal compliance. State approval for firm-level agreements became optional and, if pursued, involved only the registration and archiving of the agreement.

In Mexico, while the LFT provides that a copy of the agreed instrument must be sent to the administrative authority, it has been suggested that many workers remain unaware of them.[49] In Brazil, collective agreements must also be registered with the public authority, but the Ministry of Labour only reviews the agreements for compliance with labour law.

There are mechanisms through which agreements can be extended into other jurisdictions in the three countries, but the provisions vary. In Brazil, a collective agreement negotiated at the firm level may be extended to the whole work category in a territorial base via collective convention, or collective *dissidio* (dispute), but this is not automatic.[50] Only collective conventions are mandatory for the entire category of work in a given jurisdiction. Both conventions and agreements apply to union members and non-

[46] For example, in 1997, some 500 workers of the El Potrero Company tried to create a company union that was independent from the Sugar Workers' National Union, to which they formally belonged. A national law contract that established a hiring-and-firing exclusion clause regulated labour relations in this industry, under which only union members could be hired and only non-union members could be fired. The national union asked El Potrero to fire the "rebel" workers; the dismissed workers appealed to the Supreme Court. In 2001, the Court decided in favour of the workers, finding the layoffs to be unconstitutional (denying freedom of work and association) – but the decision applied only to this group of workers and so set no precedent.

[47] Employers' associations in Brazil and Mexico are also called *sindicatos* (trade unions).

[48] The ABC region is an industrial belt south of the São Paulo Metropolitan Area.

[49] Alcalde (2006); De La Garza (2003); Bensusán and Alcalde (2000).

[50] In Brazil, "collective agreements" cover one firm and a municipal union, while "collective conventions" cover a municipal union and all firms employing the category of work represented by that trade union.

members *of the work category only*.[51] In Argentina, if a convention is State-approved, it binds all workers and employers within the relevant trade union's jurisdiction; a national union may also negotiate a convention with a single company, binding all workers specified under the convention.

In Mexico, except for the *contrato-ley* (law contract), there are no extension provisions. Agreements bind current and future workers of the employer. The law contract can be negotiated at the local or national industry level, and the agreed conditions can be declared mandatory in one or various national states, in one or many economic activities, or even across the entire country.[52] Because extending the terms of a collective agreement is the prerogative of the administrative authority, the extension process is political. Unions representing two-thirds of the unionized workers of the industry and geographic area to be covered can demand an extension. In this case – and only in this case – more than one industry or company union can sign the agreements, which are administered by the "most representative" union. Extension must be requested from the federal STPS; if only local industries are involved, it can be requested of the provincial Executive power. If the administrative authority considers the extension "opportune and good for industry", it will call together workers' and employers' associations, and the majority of affected workers and employers must approve the resulting agreement (which cannot last for more than two years and cannot contradict existing agreements, except if defining better working conditions).

It is, however, only in Argentina that there is a duty to bargain "in good faith". After the 2004 reforms, this duty included a series of mandatory actions, such as nominating negotiators with a sufficient mandate, exchanging information towards reaching agreement and the right to take legal action in case of non-compliance. The law also established the depth and scope of information that employers must provide to worker representatives, including the economic condition of the firm and investment plans, which information unions must treat as confidential. In contrast, Brazil and Mexico do not regulate "good faith" and rights to information by law:[53] only a small number of companies, shares in which are traded on the stock exchanges, publish annual financial reports.[54]

Public sector provisions

In Brazil, until 1988, public servants could neither organize nor strike – but during the democratization process of the 1980s, public servants' voluntary associations in the social security, health and education systems, and also in State-owned banks, energy and manufacturing companies, called some of the most important and longest strikes in the country (Noronha, 1994). This led to the State's de facto recognition of the Public Servant Labour movement, but negotiated issues were restricted to wage levels and monetary compensations. The 1988 Constitution recognized the right of public sector workers to organize trade unions, but the law was not explicit in guaranteeing collective bargaining. In 1992, the Supreme Court upheld a direct action of unconstitutionality, which questioned the right of public sector worker to bargain collectively. The administrative reforms of

[51] For example, if a clerks' union negotiates working standards for clerks in a metallurgic company, these standards apply to workers in this profession only. If a metalworkers' union bargains for better conditions for its constituency in the same firm, these can be extended to the administrative workers if a new agreement is signed joining the two unions' interests. As a consequence, in big firms, bargaining is normally headed by the strongest union and all other unions in that firm sign the contract, irrespective of the possibility that a smaller craft union may negotiate better conditions.

[52] In addition, law contracts may include exclusion clauses and their wage clauses must be revised annually.

[53] In Brazil, a special law does require banks to publish the results of their operations, even if not listed on the stock market. Meanwhile, a company is not required to communicate any planned plant closure in advance to the unions or workers – but 30 days' notice of any layoff must be given.

[54] In 2001 (the last reliable information available for Brazil), 81 per cent of the urban employers' unions held no data on whether their member firms had published financial statements and 76 per cent of the urban workers' unions did not demand information on the firms' economic situation during the bargaining process (see IBGE, 2002: Tables 79 and 80).

1998 added the principle of efficiency to the constitutional principles of the public administration. The Unique Statutory Regime (*Regime Jurídico Único*, or RJU), which governed work relations in public administration, was then rescinded for new employees, opening the door to different types of work contract. While public servants were still selected through public exams, the working conditions of most were regulated by the CLT and the RJU provided that they would lose job security after two years. Subcontracted, part-time, flexible-time and task jobs were created for new employees, who shared workspace with RJU public employees, resulting in tensions and conflicts that kept the public service in a state of unrest for years. In 2005, the Labour Supreme Court finally decided that public servants ruled by the CLT had the same job security rights as employees subject to the RJU, thus ending the trend of flexibilization in the public service in the 1990s.

Based on practical experiences and on the effectiveness of the actual bargaining process at the federal, province and municipal levels, organized labour forced the discussion of public sector bargaining in the National Labour Forum (*Forum Nacional do Trabalho*, or FNT), where a Board of Public Service was instituted. After two years of debate, the Board suggested the ratification of the ILO Labour Relations (Public Service) Convention, 1978 (No. 151); in February 2008, President Lula submitted the Convention to the National Congress.[55]

Unlike Brazil and Mexico, the Workers' Unions Act in Argentina applies to all salaried workers' unions, in both the private and public sectors.[56] But due to the special articulation of union and labour laws, the 1974 Labour Contract Act does not apply to public employees, domestic or rural workers; neither are these categories regulated by the 1953 Collective Conventions Act. A 2003 Ministry of Labour resolution does, however, make the *unicidade* principle ineffective for public sector unions, because it establishes that a new *personeria gremial* granted to a new public servants' union will not extinguish an existing *personeria gremial*.

Argentina ratified Convention No. 151 in 1987, but its implementation has been slow and complex. In 1992, a law was enacted that set the standards for collective bargaining at the national administration level.[57] Contrary to the private sector law, the new regulation established that unions would be proportionally represented in the bargaining process according to their number of members (meaning that more than one union could represent the same constituency). The First Work Collective Agreement was negotiated at the national level in 1998 and approved in January 1999 (Orlansky, 2001). But much like Brazil, work contracts in Argentina's public sector are varied: work regulations combine *sacalafon* regimes (those with strict ascension and job security rules), statutory regimes and private sector-style collective conventions.[58]

Strikes in essential services were regulated by decree in 1990 in Argentina and by law in 1989 in Brazil (a law that remains valid). The CFA argued that each country should establish an independent party to arbitrate disputes concerning the definition of "essential services" – a recommendation that only Argentina followed, in 2006, by instituting a Guarantees Commission. The CFA also objected to a decree issued in 2009, on the ground that only government could define the mandatory minimum services in case of strike. The CEACR, meanwhile, considered the decree better than the previous legislation, because it incorporated labour, capital and independent parties' representatives into the Commission.

[55] At the time of writing, Brazil had not yet ratified Convention No. 151.

[56] It excludes only those ruled by Decree No. 1.135 of 2004, i.e., workers under Act Nos. 23.929 (teachers) and 24.185 (public sector), which have a convention regime of their own.

[57] Act No. 24.185 of 1992.

[58] Public security forces do not bargain collectively in Argentina.

In Mexico, public servants' labour relations are regulated, at the national level, by the LFTSE. But Mexico has not ratified Convention No. 151 and collective bargaining in the federal public sector (Jurisdiction B) is not regulated. Nonetheless, unions have an institutionalized presence in a range of State agencies: wages and bonuses, for example, are negotiated in a specific commission. In 2007, the newly created Democratic Federation of Unions of Public Servants (*Federación Democrática de Sindicatos de Servidores Públicos*, or FEDESSP) took part in this commission, and it is now trying to participate in the election of the judges of the Federal Board of Conciliation and Arbitration (*Tribunal Federal de Conciliación y Arbitraje*, or TFCA), which is responsible for individual and collective conflict resolution at the federal government and the federal district (Mexico City) levels.

Industrial relations institutions

The public authority is a central player in the three countries' IR systems, and its capacity is twofold. On the one hand, the Ministry of Labour (or the STPS, in Mexico) has the power to register unions and to guarantee the monopoly principle (one union per jurisdiction).[59] In Argentina, this also includes decisions concerning the LAS, the Work Collective Conventions and collective conflicts. On the other hand, the Labour Courts are responsible for the administration of labour justice, or rights, and because the systems are strongly legislated, the courts have a central role in deciding most of the individual rights.[60]

In Argentina, the normative regime is similarly twofold: on the one hand, the norms enacted by the federal Parliament are the frame from which, on the other hand, the provinces define their basic operation and content. Each province administers its civil and labour justices.[61] Unlike the courts in Mexico and Brazil, the Argentine courts cannot decide on collective conflict issues, but are restricted to the resolution of individual conflicts that may result from collective conflicts, collective bargaining, or the organization of work, etc. The final appellate court is the National Supreme Court.

The Mexican LFT regulates many aspects of the IR system. The Labour Prosecutor (*Procuradoría de Defensa del Trabajo*, or PDT) mediates, and represents workers and their representatives before any public authority in issues related to the applicability of the labour law. It also instructs ordinary and extraordinary petitions in defence of workers and their representatives, and proposes peaceful capital and labour conflict resolution procedures. The LFT regulates the many local (and one federal) Conciliation and Arbitration Boards, which are tripartite conflict resolution bodies. Article 462 of the LFT states that these Boards can modify agreed working conditions (either in collective or law contracts) whenever demanded by the parties, and "whenever the economic circumstances justify [the changes]; and whenever inflation results in an imbalance between labour and capital". The Boards perform pivotal tasks: for example, they judge the legality of a strike and control how it is carried out. To propose a strike, the union must either be the most representative party to a collective agreement or that which signed it (minority unions cannot propose a strike). Comparing the cases of Brazil, Argentina, Chile and Mexico,

[59] The Ministry of Labour in each of the three countries gathers, organizes and publishes data resulting from its administrative responsibilities on a series of labour market dimensions, including job creation and destruction, unemployment insurance, employment levels, labour inspection (in Brazil, especially concerning slave and child work), programmes of income generation and training. It also publishes data on the unions' structures, with information on their main characteristics, including numbers of members, affiliation to central federations and collective bargaining events in the previous year. The Ministries' websites are friendly and informative, but available information on unions is still limited.

[60] In Argentina, the Court acts only *a posteriori.* A recent resolution illustrates this statement. In November 2008, the Supreme Court overturned previous decisions of the Ministry of Labour and the National Chamber of Labour Appeals when it determined that art. 41 of the LAS (which states that only the union with *Personería Gremial* may register union delegates) does not apply to a conflict between two public sector unions. See http://www.csjn.gov.ar/documentos/cfal3/ver_fallos.jsp

[61] There is a National Labour Justice, which was set by the federal government, but it acts only in the jurisdiction of the City of Buenos Aires, even though it also has jurisdiction in the revision of demands related to the collective labour law.

Bensusán (2006) said that it is in Mexico that collective action and bargaining rights are more extensively acknowledged. The State has, however, put these rights (and those exercising them) under strict surveillance and control, thus reducing their actual validity and subsuming them under State political and economic interests and constraints.

In Brazil, too, the importance of the Labour Court in IR cannot be overestimated: it guarantees individual labour rights and has a "normative power" in collective bargaining – that is, it may arbitrate judicial *sentencia* (decisions) in place of collective agreements and conventions (the collective *dissidio*), which have a mandatory hold over labour and capital. Since the mid-1990s, the number of judged *dissidios* has decreased to a mean of less than 700 per year,[62] in the context of more than 30,000 bargaining instruments.[63] This has helped to reduce the importance of the Court's normative power, and while the *dissidio* remains an option, bargaining is commonly guided by parties aiming at autonomous agreements. In terms of individual labour rights, however, during each year of 1994–2007, no fewer than 1.8 million individual workers' demands reached the Court's first level (the *Varas do Trabalho*).[64] This represents 10–15 per cent of all formal sector annual layoffs, as measured by the RAIS.[65]

A second judicial party has gained momentum more recently, as a direct consequence of the 1988 Constitution: the Public Labour Attorney (*Ministério Público do Trabalho*, or MPT). Until 1988, the MPT was a subsidiary of the Labour Supreme Court and its provincial agencies (the Regional Labour Courts), producing reviews of the judicial *sentencia*. After 1988, the MPT became a defender of the juridical order, the democratic regime, and the diffuse social and individual workers' rights. During the 1990s, the MPT consolidated judicial action focusing on human rights at work, immediately forcing companies or State agencies to adopt "terms of adjustment" relating to many risky working conditions (even when not defined by labour law). Discrimination on grounds including gender, race and disability (and others such as moral harassment), and dangerous working conditions (including child and slave work), have become major MPT concerns, thus importantly augmenting the role of the public authority in Brazil's IR system.

So, in Argentina, Brazil and Mexico, the law (including the Constitution) and collective bargaining strongly regulate IR. The law imposes an *ex ante* structure on the three IR systems: defining extensive individual and collective labour rights and duties; regulating collective bargaining, collective action, workers' and (except for Argentina) employers' organizations; defining the role of each party in IR (including the administrative authority); and setting the parameters for capital and labour encounters, and the limits for their results. Collective bargaining is also an important regulatory instrument, but in all three countries, the parties' (especially workers') freedom of association and collective action, including bargaining, is variously limited by systems designed to reduce competition among trade unions and to grant existing unions control over their constituencies.

In Argentina and Brazil, the flexibility measures instituted in the 1990s were partly revised in recent years, largely through the redefinition of the role of the Ministry of Labour in the IR systems. Law enforcement through labour inspection became a central element of its actions, but in both countries a series of tripartite mechanisms created during the Néstor Kirchner and Lula administrations also favoured compliance. In Mexico, on the contrary, compliance with the law is very low, meaning that while the system is formally

[62] See http://www.tst.gov.br/Sseest/RGJT/Rel2007/TRT2007/323.pdf

[63] Estimated using the 2001 Brazilian Institute of Geography and Statistics (*Instituto Brasileiro de Geografia e Estatística*, or IBGE) census of Brazilian trade unions.

[64] See http://www.tst.gov.br

[65] Most demands refer to unpaid dismissal benefits or firing costs (Cardoso and Lage, 2007), demonstrating that workers tend to perceive the Labour Court as guardian of their individual rights.

rigid, it is flexible in practice – and that Mexico's legal framework focuses more effectively on control than it does on protection.

2. Actors

While there are similarities between the legal and institutional frameworks of Argentina, Brazil and Mexico, the political and economic conflicts and relationships between State, labour and capital in each of these countries have produced three very particular groups of collective actors.

Argentina

The Argentine legal system does not limit the number of workers' or employers' IR institutions, but some aspects of its legal framework and the political dynamics of the last 50 years or so favoured the constitution of national organizations by industry. The Argentine labour movement was granted the right to deliver *obras sociales* (social services) in the beginning of the 1970s; from then on, unions monopolized the delivery of health services for their own members, deducting mandatory health fees from pay cheques and so gaining economic independence. By 1980, the union structure comprised a system both of representation and of delivering health services to workers – each as a natural extension of the *personería gremial*.[66]

Eighty-two federations with *personería gremial* and some 1,400 first-level trade unions are registered with the Ministry of Labour, suggesting a decentralized labour movement in Argentina – but the federated structure provides that collective agreements signed at the national level by a small number of national unions (metallurgy, metal mechanics, banks, gastronomy, passenger transports) and federations (commerce, health, heavy transports) have a broad impact on the entire formal private sector. Additionally, there are industry-level confederations (transport, food and catering, the public sector), which, while weaker than the federations, may also (albeit rarely) sign national agreements that bind the entire industry. Two central federations complete the picture: the CGT (with *personería gremial*) and the CTA (which is still awaiting recognition). These central federations do not, however, have a formal role in collective bargaining.

Among 1,400 unions, there are private and public sector unions in both national and local geographic jurisdictions. There is no representation plurality, but some activities are defined more strictly, while others have broader scope.[67] Local unions may or may not join a federation, and at the local level, more than one federation can represent workers within the same industry according to the *personería gremial* of the affiliated local unions.[68]

[66] In the 1990s, the system was partially liberalized, but the most aggressive attempts failed because of union opposition: see Belmartino (2005), and Repetto and Alonso (2004). The structuring role of the Argentine labour movement, represented by centralized collective bargaining and control over obras sociales, is exemplified by the municipality public servants' unions and those of commerce workers. Municipality workers' unions are organized in provincial federations and in a national organization, the Argentine Confederation of Municipal Workers and Employees (*Confederación de Obreros y Empleados Municipales de la Argentina*, or COEMA) – but they do not bargain nationally and do not control obras sociales. These unions are strong locally, but not at the national level. Commerce workers' unions, however, are nationally confederated in the powerful Argentine Federation of Commerce and Services Workers (*Federación Argentina de Empleados del Comercio y Servicios*, or FAECYS), which controls the obras sociales and, with an employers' organization, provides life insurance to its members. The FAECYS bargains the collective conventions that bind all workers (whether members or not) and has put together an important structure of services on which many local unions depend. Not surprisingly, its president is one of the most powerful union leaders in the country.

[67] For example, the metal workers are represented by only two unions, while in food and catering, the number of institutions is higher. There are large unions in public or private sectors, in services or manufacturing. And there are local unions in all these areas. Twenty-five per cent of the federations are in the public sector, while 37 per cent are in manufacturing and primary activities, and 38 per cent in commerce and services.

[68] For example, some services' unions affiliated to major federations (mainly telephone and postal workers) withdrew to form parallel national organizations that are not yet recognized. Telephone workers' unions are a special case, because the official

National unions predominate in construction and in many manufacturing sectors; in commerce, electricity, gas and water, the structure is federative (various unions join together in bargaining efforts). Important national unions organize commerce and service workers (gastronomy, passenger transports, public security), sharing the representational space with local organizations,[69] although solidly articulated in a national federation with strong social visibility.

The great majority of trade unions and federations are affiliated to the CGT. The CTA, created in the early 1990s as an alternative to the CGT, is well organized in the public sector and affiliates 19 private sector unions with *personería gremial*. It also participates in some unions affiliated to the CGT. Individual workers and non-salaried workers' associations can be members of the CTA, and a large number of popular organizations joined the CTA, the most important of which represented jobless workers. The CTA is therefore partly a social movement and partly a union seeking recognition by the State as a workers' central federation – an innovation among Argentine trade unions. But the rigidity of the union structure, along with the fact that almost all private sector workers are covered by collective agreements – whether union members or not – have made it difficult for the CTA to attract new members.

Apart from this highly (for Latin American standards) centralized workers' organization, unlike Brazil and Mexico, Argentina is characterized by strong, institutionalized firm-level *gremial* organization. Internal commissions and shop stewards are organically linked to the union with *personería gremial*;[70] in larger companies, agreements signed by internal commissions are rarely approved by the administrative authority, but are nonetheless binding on workers and employers.[71]

The representation of employers' associations in collective bargaining is frequently delegated to consulting companies and lawyers, and information on employers' associations is sparse and unreliable. Unlike those of Brazil and Mexico, Argentine employers' associations are regulated by the Civil Code, not the labour law. Similarly to workers' unions and federations, employers' associations appear to be organized into chambers and federations at the industry or the geographic levels (and also according to firm size); there is also a confederation level of organization. The criterion of "most representative" applies to chambers as it does to workers' unions – that is, the State recognizes only bargaining instruments signed by the most representative employers' associations – and when disputes on representativeness arise, or when an employer representative cannot be clearly identified, the State has an active role in determining the employer's bargaining party.[72]

There are at least four different models of chambers' participation in collective bargaining:

federation acknowledges only a minority of the existing local unions; first-level national unions, however, have national personería gremial. For example, the Villa Constitución section of the Metalworkers Union (*Unión Obrera Metalúrgica*, or UOM), a first-level national organization, is part of the CTA, but it cannot bargain separately or leave the UOM, which has the national personería gremial. The Argentinian Telephone Workers and Employees Union of Buenos Aires (FOETRA Sindicato Buenos Aires) has personería gremial to represent the city's workers, so the local telephone company cannot bargain with the national federation (*Federación de Obreros y Empleados Telefónicos de la República Argentina*, or FOETRA), from which the local union withdrew.

[69] There are 135 unions with personería gremial in commerce alone.

[70] In 2006, 61 per cent of big companies (those with 100 workers or more), 31 per cent of the medium companies (those with 50–100 workers) and 7.5 per cent of the small companies (those with 10–50 workers) had delegates or union representatives (Trajtemberg, Senén González and Medwid, 2008).

[71] Interview with Héctor Palomino, 18 July 2008.

[72] Ibid. Act No. 14.250 and Decree 108 of 1988 gave the administrative authority the power to define employers' representation in industry-level bargaining.

- employers' associations in sectors with strong association tradition, which are very representative and which, among other activities, negotiate collective conventions with workers' unions;[73]
- industries in which the chambers are fragmented – if there is a workers' union at the industry level, it acts to gather employers' interests together;[74]
- sectors in which different chambers sign different conventions with a single trade union;[75] and
- sectors in which employers' representation is either not clear or does not exist – in which case, the State tries to act as the employers' bargaining agent.

Finally, the State (as an employer) has recently recognized the rights of public servants' unions to bargain collectively. But because this recognition is not inscribed in the labour law and the current Peronist administration favours collective bargaining, the State is less strict in terms of union representativeness and normally bargains with more than one union. The federal and provincial governments have negotiated nationally with teachers, for example, and the resulting agreement is valid across the provinces.

Brazil

In Brazil, the *unicidade* principle may suggest the prohibition of competition within the union market, but in reality, the whole system is highly fragmented and competitive. There cannot be two unions of "metalworkers" in the same city – but there *can* be a union of drillers, one of spinning drillers, one of hammers, and also unions for bicycle assembly, car production, auto-parts' workers, and so on. As a consequence, in 2001, the IBGE found almost 16,000 unions in the country (11,000 of which were workers' unions), a growth of 43 per cent compared to 1991.[76]

In May 2007, the Ministry of Labour's Union Information System (*Sistema de Informações Sindicais*, or SIS) counted 7,000 workers' unions, 19 confederations and 283 federations.[77] Most workers' unions (46 per cent) were based on municipality. But in 2001 the IBGE census found that 89 per cent of the 4,000 rural workers' unions were municipal institutions, compared with only 39 per cent of the 7,400 urban workers' unions, meaning that *unicidade* at the municipality applies only to rural – not urban – unions. Meanwhile, 54 per cent of workers' associations had jurisdictions that exceeded the municipality, correlating with the distribution of employers' unions, meaning that although the law favours local municipal unions, many of them have managed to encompass other municipalities.

[73] For example, the Argentine Chamber of the Plastics Industry (which represents more than 1,300 companies), or the Argentine Chamber of the Chemical and Petrochemical Chamber (in which 90 per cent of the sector's GDP is represented).

[74] For example, those of the commerce, steel, heavy transport and glass industries, in the last of which four employers' chambers representing different industry segments (one glass, two flat glass and one optical glass) bargain jointly with the single union that represents glass workers.

[75] For example, the Employers' Federation of Hotels and Restaurants of the Argentine Republic, the Argentine Chamber of Food and Catering Concessionaries, the Argentine Federation of Hourly Lodging and the Association of Tourism Hotels of the Argentine Republic, which sign different conventions with the Hotel and Gastronomic Workers' Union of Argentina (*Unión de Trabajadores del Turismo, Hoteleros y Gastronómicos de la República Argentina*, or UTHGRA).

[76] In 2007, the Ministry of Labour's RAIS counted 1,500 unions fewer than in 2001 – a decrease probably resulting from the under-registration of employers' unions and also from the 2005 Supreme Court decision discussed in Part 1. Workers' unions again numbered some 11,000.

[77] The main limitation of this source is that it is voluntarily fed by the parties themselves. It is not filtered or controlled by an external source, and its validity cannot be tested. It is, however, the only available up-to-date information. When compared to IBGE's 2001 census and to the 2007 RAIS, the SIS severely underestimates the number of workers' unions, both in urban and rural areas (probably by 30 per cent). Employers' institutions are much better represented in both geographic divides.

Fifty-five per cent of the existing unions were not affiliated to any of the 17 central federations seeking official recognition in 2007. The CUT was by far the most important of the peak associations, gathering together 50 per cent of all unions and federations that were affiliated to a central federation.[78] The Union Power (*Força Sindical*, or FS) had 20 per cent, and the New Workers' Central Federation (*Nova Central Sindical de Trabalhadores*, (NCST, created in 2005 when traditional, bureaucratic, corporatist bodies merged) had 17 per cent. The Social Democratic Union (*Social-Democracia Sindical*, or SDS), an offshoot of the FS, and the General Workers Confederation (*Confederation General del Trabajo*, or CGT) also a traditional institution, gathered some 4 per cent of the remaining affiliates each. CUT and FS, then, have the most union members – and so have the most social and political power.

Thus the Ministry of Labour defines a union's jurisdiction – whether at industry, firm or occupational level – and a union has a monopoly over representation in that jurisdiction. For subcontractors, meanwhile, there is no mandatory provision, legal or agreed, that guarantees rights. The Rio de Janeiro Oil Workers' Union (*Sindicato dos Trabalhadores na Indústria do Petróleo do Rio de Janeiro*, or Sindipetro-RJ), for example, negotiates with Petrobras, Petroquisa, Braspetro, and other oil and petrochemical companies operating in the state of Rio de Janeiro. The resulting agreements bind only the workers directly employed by each firm, and benefits would be extended to subcontractors only if they were to take part in the bargaining process – from which employers exclude them, arguing that their participation would violate the *unicidade* principle.[79]

Unlike Argentina, Brazilian law does not regulate work commissions or shop-floor organizations other than those related to safety at work;[80] workers must negotiate with resistant employers to establish plant-level union representation or grass-roots workers' organizations. As a consequence, as in Mexico, unionism has not managed to penetrate Brazil's shop floors. In 2001 (the last data available), only 9 per cent of workers' unions acknowledged the existence of a "factory commission", or autonomous (that is, not linked to the unions) plant-level representation in their territorial base.[81] Only 3 per cent of the urban unions had plant-level union committees, while 34 per cent of all unions had "union delegates" (workers that were assigned union tasks) and the mean number of stable delegates per union was eight people.[82] Where they exist, union committees and delegates have an important role in plant-level collective bargaining, but their scarce numbers suggest that only a few unions can bargain the organization of work.

The provisions of Vargas' legal legacy are formally the same whether applied to workers' or employers' unionism, but (as in Mexico) employers' strategic actions have always been twofold. On the one hand, the official union structure gave them the stable base for a regular, legal access to State agencies at the three administration levels (federal,

[78] See Annex 3 for more information on workers' and employers' peak associations.

[79] In trying to reduce the resulting inequality of labour standards, in 2004, after years of strain and conflict, Sindipetro-RJ and other unions within the CUT's Unique Oil Workers Federation (*Federação Única dos Petroleiros*, or FUP) negotiated a clause with Petrobras that instituted a bipartite commission to set standards for subcontractors that meets every three months. While it has helped to reduce work accidents and to improve working conditions, it has had no effects on subcontracted wage levels. The relevant collective agreements are available online at http://www.sindipetro.org.br

[80] The 1988 Constitution instituted firm-level workers' representatives in plants with 200 workers or more – but the provision was never regulated by ordinary laws.

[81] See http://www.ibge.gov.br/home/estatistica/populacao/condicaodevida/sindical/sindicato2001.pdf (p. 59). In 1992, the figure was 4 per cent, so there has been an increase in plant-level representation – albeit a very small one.

[82] On the other hand, 46 per cent of urban workers' unions acknowledged the existence of at least one Internal Commission for Prevention of Accidents (*Comissão Interna de Prevenção de Acidentes*, or CIPA) in their territorial base. Presumably, the CIPAs are devoted to internal, work-related safety conditions. Stronger unions regulate the operation of CIPAs, especially in risky work environments, and they play a central role in daily IR activity. Since plant-level personnel elect their members, in many grass-roots Brazilian unions such as metal, steel, oil, petrochemical, teachers and bank workers' unions, CIPA representatives are part of organized labour dynamics and act as plant-level organization.

State and municipal).[83] Like workers' unions, 56 per cent of all employers' unions and 88 per cent of their federations are affiliated to a confederation.[84] This structure gives employers the right to participate in the many tripartite institutions within the public administration, most of which were created by the 1988 Constitution (see Part 3).[85] These confederations also coordinate federations' and unions' actions in many entrepreneurial fields, including consulting, advising, auditing, and support for micro- and small enterprises. Sometimes, they even coordinate collective bargaining efforts – but this is mostly a prerogative of provincial federations and some national federations.

On the other hand, employers are organized in many voluntary class associations. These two forms of organization (one of which is compulsory, corporatist and regulated by the State; the other of which is voluntary, but participates in policymaking and lobbying) comprise what Boschi and Diniz (2002) have called the "dual structure of entrepreneurial organization" in Brazil – that is, the marriage of complementary facets in directing boards and, sometimes, infrastructure and budgets.[86]

Mexico

Union structure in Mexico results from two main features of the institutional framework: the control exerted by registered unions over the collective agreements, and their representation in the local and national Conciliation and Arbitration Courts. These provisions offer registered unions a virtual monopoly over representation within a particular constituency, and political participation, either directly or via powerful federations and confederations.[87] These confederations are affiliated to the CT, which is the prevailing organization not only because of its majority membership, but also because of its special relations with the State, and its institutional and political resources. Unions affiliated to the CT have precedence in collective bargaining, are favoured by exclusion clauses and have seats in tripartite labour administration mechanisms, including labour courts and commissions; other independent federations have found their way through the official system only at a much slower pace than expected.[88]

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[83] Seven national confederations centralize employers' actions: the National Confederation of Industry (*Confederação Nacional da Indústria*, or CNI), which relates to manufacturing; the National Confederation of Commerce (*Confederação Nacional do Comércio*, or CNC); the National Confederation of Transport (*Confederação Nacional dos Transportes*, or CNT); the National Confederation of Healthcare Services (*Confederação Nacional de Saúde*, or CNS), the National Confederation of Schools (*Confederação Nacional dos Estabelecimentos de Ensino*, or CONFENEN); the National Confederation of Agriculture (*Confederação Nacional da Agricultura*, or CNA); and the National Confederation of Financial Institutions (*Confederação Nacional das Instituições Financeiras*, or CNF). See Annex 3 for more information on each.

[84] Among workers' associations, 68 per cent were confederation members. The difference is that the rate of workers' participation in confederations is weighted by rural unions, more than 90 per cent of which are part of the National Confederation of Agricultural Workers (*Confederação Nacional dos Trabalhadores na Agricultura*, or CONTAG). In urban areas, the membership rate is of 57 per cent. See http://sis.dieese.org.br/estat.php?a=v&e=1.6

[85] It also gives them rights to the resources of the so-called "S System" – that is, a tax on firms' global payroll that finances the civil societies that provide services – especially training and social services – to workers in the different economic branches institutions, including the National Service for Industrial Apprenticeship (*Serviço Nacional de Aprendizagem Industrial*, or SENAI), the Social Service for Manufacturing (*Serviço Social da Indústria*, or SESI), the National Service for Commercial Apprenticeship (*Serviço Nacional de Aprendizagem Comercial*, or SENAC) and the Social Service for Commerce (*Serviço Social do Comércio*, or SESC).

[86] For example, the President of the Union of the Industry of Chemical Products of Rio de Janeiro (*Sindicato da Industria de Produtos Quimicos para Fins Industriais do Estado do Rio de Janeiro*, or SIQUIRJ) is also a member of the council of the Brazilian Chemical Industry Association (*Associação Brasileira da Indústria Química*, or ABIQUIM) and the president of the National Association of Motor Vehicle Manufacturers (*Associação Nacional dos Fabricantes de Veículos Automotores*, or ANFAVEA) is also the president of the SINFAVEA.

[87] The STPS counted 2,403 registered workers' associations in 2007. The majority of these organizations were grouped into 42 federations and confederations: the CTM had 742 member bodies; the Revolutionary Confederation of Peasant Workers (*Confederación Revolucionaria de Obreros y Campesinos*, or CROC) had 414; and the Regional Confederation of Mexican Workers (*Confederación Regional Obrera Mexicana*, or CROM) had 330.

[88] See, for example, De la Garza (2003), and Roman and Arregui (2001). For a sensible prediction of the limited scope of the forthcoming changes, see Bisberg (2003).

In fact, it is hard for independent unions to withstand the economic and political power of the major federations. Created in 1997, by 2000, the UNT claimed to represent 1.5 million workers (Vadi, 2001: 139) – a figure that was probably overestimated, despite the affiliation of the Authentic Labour Front (*Frente Auténtico del Trabajo*, or FAT),[89] and of many service sector and public servants' unions. But it has been argued that while the UNT was born as an alternative to the official CT, both were instituted by officialist labour bureaucracies trying to adapt to a disintegrating political system, and to cooperate with State and/or capital "to contain working-class militancy" (Roman and Arregui, 2001: 63). Nuñes (2003) agreed that the UNT was a kind of "neo-corporatism" and not a "new unionism"; for Bensusán and Alcalde (2003; 2000: 174), the UNT needed to dispute the supremacy of traditional unionism if internal political differences were to be resolved in favour of the independent organization of workers. But the UNT cannot be rid of its officialist side, because many of its affiliates are part of the official union structure, meaning that the only real alternative is the Mexican Union Front (*Frente Sindical Mexicano*, or FSM), headed by the Mexican Union of Workers in Electricity (*Sindicato Mexicano de Electricistas*, or SME) – and this, according to De La Garza (2003: 366), has long lost capacity for collective action. While there are unions that offer protection contracts, and others that are democratic and participative, the UNT continues to use traditional practices, such as exclusion clauses, to control its opponents.

The organization of employers in Mexico, like that in Brazil, is twofold, but the institutional framework is different. While, in Brazil, employers' non-corporatist associations are not regulated by law, in Mexico, they are ruled by the Act on Employers' Chambers and their Confederations, instituted in the 1930s and repeatedly amended (most recently in 2005); the corporatist part of employers' organizations is regulated by the LFT, under which the Employers' Confederation of the Mexican Republic (*Confederación Patronal de la República Mexicana*, or COPARMEX) was created in 1929. More than 36,000 companies are members[90] and, by law, it should represent employers in industry-level collective bargaining – but because most bargaining occurs at the firm level, employers' organizations play no role in collective bargaining except for the few chambers that bargain the law contracts.

The Mexican Entrepreneurial Information System (*Servicio de Información Empresarial Mexicano*, or SIEM) registered 335 chambers in 2008, 80 per cent of which represent commerce, services and tourism. Commercial and tourism companies tend to gather in chambers at municipal or regional level, while manufacturing employers are organized mostly at the national industry level. But some regional chambers are more important than national ones.[91] In the history of Mexican business organization, two national confederations stand out: the Confederation of National Chambers of Commerce, Services and Tourism (*Confederación de Cámaras Nacionales de Comercio, Servicio y Turismo*, or CONCANACO), created in 1917, and the Confederation of Manufacturing Chambers (*Confederación de Cámaras Industriales*, or CONCAMIN). The first Commerce and Manufacturing Chambers' Act (*Ley de Cámaras de Comercio e Industria*) of 1936 made employers' affiliation to these Chambers mandatory. During the 1980s, some employers demanded flexibility in the system and, in early 1990, one employer in the

[89] The FAT is an independent central federation that was created in 1960 and which represented manufacturing workers in half of the Mexican provinces by 1997. It was particularly active among the maquila workers, with the explicit collaboration of US trade unions.

[90] The Mexican Entrepreneurial Information System (*Servicio de Información Empresarial Mexicano*, or SIEM) registers some 711,000 firms in Mexico, 93 per cent of which are micro-enterprises, 8.4 per cent of which are in manufacturing and 71 per cent of which have fewer than five employees. The enormous fragmentation of the Mexican business scenario explains why a few big firms (5,000 of all SIEM companies were big) set the standards of employers' strategic action.

[91] For example, the Chamber of Manufacturing of Nuevo León (*Cámara de la Industria de Transformación*, or CAINTRA) is more active and much better organized than the National Chamber of Manufacturing (*Cámara Nacional de la Industria de Transformación*, or CANACINTRA). The Chambers' websites are a clear evidence of the weaker drive of CANACINTRA, as compared with CAINTRA.

health sector won the right not to contribute to the National Chamber of Hospitals. In 1995, the Supreme Court declared the mandatory affiliation illegal; many employers withdrew from their representative bodies and, in 1996, a new law made the affiliation voluntary.[92]

Argentina, Brazil and Mexico compared

Of the three countries, unions in Mexico are the most regulated; those of Argentina are the most autonomous, while those of Brazil fall somewhere in between. The Mexican system is highly centralized at its upper levels, with a single peak association (the CT) affiliating most of the existing unions and controlling collective bargaining; at its lower levels, worker representation is extremely fragmented and it is virtually absent from the shop floor. All of these factors make the Mexican IR system dependent on the State, and its political and strategic rationale – something that collective bargaining can only reflect.

In Argentina, a peak organization (the CGT) also affiliates the vast majority of existing unions, but it does not head the collective bargaining process, which remains a prerogative of unions and federations. The CGT, like the CT, is politically oriented, but more independently of the State's administrative apparatus. Unions are also well established within their constituencies, and while in Mexico, official unions *control* workers to prevent the emergence of competing, autonomous organizations, in Argentina, the relative autonomy of those unions *constitutes and represents* workers' interests.

In Brazil, since the 2005 decision of the Supreme Court, union structure again depends on State recognition, but the Ministry of Labour has no power to intervene in workers' organizations. However, the fragmentation of the structure of craft, industry and sector unions in the same municipality, all with legal access to mandatory funds, has also been a factor in the fragmentation of the peak associations – and firm-level organization is also weak. The coordination of collective bargaining efforts is consequently much more difficult in Brazil than it is in the other two countries, not only at the national scale but also at the provincial and even municipal levels.

While employers are strongly organized in the three countries, their relative regulation is the same as that relating to unions. In Brazil and Mexico, employers cannot choose not to join an existing corporatist association:[93] in Brazil, this led to the constitution of voluntary associations; in Mexico, even voluntary organizations have a legal code of their own. In Argentina, however, employers' associations are voluntary. In Argentina and Brazil, employers' associations are strategic actors in collective bargaining; but in Mexico the system favours firm-level bargaining (except for the residual law contracts), and thus employers' associations have no influence.

[92] But some employers found the new law ambiguous and positioned themselves against the new provisions. See "La lucha de los microempresarios por la libertad de asociación" Alternativas. *Boletín electrónico de la Red Mexicana de acción frente al libre comercio*, Año 1, número 6, 15 agosto 2006. www.rmalc.org.mx/boletines/alternativas/Boletinalternativas6.pdf

[93] In spite of the 1995 decision of the Mexican Supreme Court.

Box 1.
Organizing informal workers in Brazil

Apart from the legal union structure, an innovative organizational practice in Brazil has been the attempt to represent informal, "own-account" (self-employed) workers. These workers do not bargain collectively, because, by definition, they do not have an employer; their organization has consequently been a process of definition of their opponents – or those to whom they would make their demands, or affirm their interests and rights, and from whom they would sometimes seek protection. Because informal own-account activities frequently involve *camelô* (street vending), they are a matter of urban order (or disorder), and also of competition with formal commercial and services activities. Because most activities are not only informal but also illegal (the workers pay no taxes, deal with goods of illegal origin, sell food without the necessary sanity measures, etc.), they are exposed to police repression and other legal actions from the public authority, and also to the anger – and even violence – of formal establishments and laypersons proclaiming their "right to the city".[94] All of these factors (and more) make the activities of *camelô* workers potentially conflictive practices, which their organization will institutionalize.

In 1992, the Unique Workers' Centre (*Central Única dos Trabalhadores*, or CUT) sponsored the creation of the Union of Informal Economy Workers (*Sindicato dos Trabalhadores da Economia Informal*, or Sintein-CUT). Amongst its purposes are regular consultation with the Ministry of Labour's Solidarity Economy Board to propose forms of micro-credit, entrepreneurship and support for own-account activities. It also stimulates the constitution of *camelô* cooperatives, which strengthen workers' bargaining power with wholesale dealers and access to new suppliers.

In 2005, Sintein-CUT joined StreetNet, a South African organization comprising 18 unions in 15 countries devoted to the exchange of information about the problems and conditions of street vending, and to proposing new forms of organization. One of the results of this association was the organization of a seminar on public policies in different administration levels, held in São Paulo in November 2005. But the seminar's resolutions were never published and a member of the CUT Executive Board said that Sintein-CUT remains "a dream", in that it could not achieve its main goals, largely due to its inability to attract and consolidate a stable membership.

The São Paulo *camelô* community is diverse, violent, illegal and, in many cases, dealt with by gangs of dealers of pirate goods, public officials and inspectors, and also by some workers' representatives. There are therefore already a myriad of associations in the various neighbourhoods, many of which are totally impervious to non-members. In São Paulo city centre alone, there are: the Movement of the Ambulant Workers of São Paulo (*Movimento dos Ambulantes de São Paulo*, or MASP); the São Paulo Independent *Camelôs* Union (*Sindicato dos Camelôs Independentes de São Paulo*, or SINDICISP), which is affiliated to FS; the independent Union of Street Licensees of the São Paulo Municipality (*Sindicato dos Permissionários Em Pontos Fixos nas Vias e Logradouros Públicos do Município de São Paulo*, or SINPESP); the Union of *Ambulantes* (roving street vendors) and Support Centre for Small Enterprises in São Paulo (*Sindicatos dos Ambulantes e Centro de Apoio aos Pequenos Empreendimentos de São Paulo*, or CEAPAE-SP). There is also an Association of the São Paulo *Ambulantes* (*Associação dos Trabalhadores Ambulantes de São Paulo*, or ATASP), a Commercial Union of the *Ambulantes* Vendors of São Paulo (*Sindicato do Comércio de Vendedores Ambulantes de São Paulo*, or SINCVASP), and many other organizations claiming to represent street vendors and informal workers.

The Sintein-CUT is consequently only one among many – albeit probably one that is better organized than most – and the negative São Paulo CUT experience means that the organization of informal workers in the rest of the country remains problematic.

Union density

Reliable data on union density are not easy to gather: there is some survey research relating to each of the three countries, but the relative methodologies are not comparable. In Brazil, the National Household Sample Survey (*Pesquisa Nacional por Amostra de Domicílios*, or PNAD) collects information on whether the person is a union member or not, but includes

[94] For a good discussion of the "rights to the city", focusing on the new marginalizing and stigmatizing tendencies in the post-Fordist city, see Wacquant (2001).

only the occupied population.[95] In Mexico, the National Household Income and Expenditure Survey (*Encuesta Nacional de Ingresos y. Gastos de los Hogares*, or ENIGH) asks individual salaried workers if they are union members. To make these data comparable, we must restrict Brazilian data to salaried workers only. In Argentina, meanwhile, no household survey investigates union membership on a regular basis; only firm-level information is available, which restricts data to the occupied salaried workers in firms of a particular size (five employees or more, or ten employees or more, depending on the survey).

Melgoza Valdivia and Esquinca (2006) compared the Mexican 1992 and 2002 ENIGH surveys, and found no significant change in the total number of unionized salaried workers (4.1 million to 4.2 million in ten years).[96] In relative terms, this means a fall of 3.6 per cent in the economically active population (EAP) density rate (from 13.6 per cent in 1992, to 10 per cent in 2002). The relative fall would have been worse were it not for the increase in membership among women, which grew from 1.4 million to 1.7 million, while that among men fell from 2.7 million to 2.5 million. Considering manufacturing alone, unions lost some 90,000 male members (1.21 million to 1.12 million), but gained some 100,000 female members (231,000 to 332,000). In terms of occupation, teachers were the most unionized (76 per cent in 1992 and 64.5 per cent in 2002, representing 21 per cent of all union members at the end of the period), followed by "operators" (manual workers, falling from 46 per cent to 34.3 per cent in ten years, and representing 13 per cent of the total membership) and technicians (27 per cent to 25.5 per cent, respectively). Clerical workers lost eight per cent density (from 30 per cent to 22 per cent), but accounted for 13.7 per cent of the total unionized population.

Data from the 2006 ENIGH (Table 7 in Annex 1) demonstrates that gender differences are explained by the much higher participation of women in the education and health services sectors. While total female employment in the former was 13.7 per cent, almost five times that of men (5.1 per cent), the density rate was only 15 per cent lower (61.3 per cent of women, compared with 72 per cent of men). In health services, the disparities were even stronger: the membership rate relating to women was 4.7 higher than that of men, while the density rate was only 24 per cent lower. So, some 85 per cent of the total gender differences in union membership result from the facts that:

- women comprise the majority of the labour force in education (60.4 per cent) and health (73 per cent);
- density rates are high in these economic sectors (both for men and women); and
- these sectors employ 21 per cent of the salaried women, compared to only 6.7 per cent of salaried men.

The residual difference is explained by government activities, in which male and female membership is around 6 per cent, but the density rate relating to women is as high as 38.5 per cent (for men, it is less than 23 per cent).

In Argentina, union density is more difficult to grasp. In 2005, the Ministry of Labour's Survey of Company Workers (*Encuesta de Trabajadores en Empresas*, or ETE) surveyed private companies with ten registered employees or more; the union density of these workers was estimated at 37.6 per cent. Unlike Brazil and Mexico, the rate of male membership (43.4 per cent) was much higher than that of women (27.3 per cent) (Aspiazu and Waisgrais, 2007). Table 9 in Annex 1 shows that the women's rate is lower than the men's in all economic sectors, and much lower in manufacturing (30 per cent of women,

[95] This is an important limit, because union members include a good proportion of retired workers.

[96] For the second trimester of 2008, the figure was of 4.5 million, according to the National Survey of Employment and Occupation (*Encuesta Nacional de Ocupación y Empleo*, or ENOE).

compared with 50 per cent of men), and transport and communications (25 per cent of women, compared with 53 per cent of men).

According to a different source,[97] in 2006, union density was estimated to be at 39.7 per cent, and unlike in Mexico, density of more than 45 per cent was found in manufacturing, construction, restaurants and hotels, commerce, and transports and communications, and around 27 per cent in finance, social and community services (see Table 8 in Annex 1). This is probably due to the fact that these two sources in Argentina do not include public servants, in which sector Marshall and Perelman (2004) estimated union density to be as high as 64.5 per cent in 2001.[98]

Whatever the truth, Argentina is a special case, because the rate of union membership is higher in small firms (44.3 per cent) than it is in big firms (39 per cent) (Trajtemberg, Senén González and Medwid, 2008). At least two reasons may explain this phenomenon – that is:

- the Argentine model favours union organization at the economic activity level, which encourages the inclusion of small firms; and
- the development of social services, which sometimes foster workers' membership irrespective of the face-to-face worker–employer relationship that is traditionally considered to limit union militancy.[99]

In Brazil, density rates[100] among all salaried work categories increased between 2002 and 2006: union membership among private, formal-sector salaried workers increased by 1.1 per cent, while that among public servants grew by 2.4 per cent. But these small relative changes represented only 1.8 million new members in the salaried private sector and 471,000 new members in the public sector. Formal-sector density, including both private and public employees, remained constant at 29 per cent in 2002 and 30.3 per cent in 2006. The global change (that is, across all work categories) reflected trade unions that were thriving in a growing labour market, attracting 2.5 million new members, including even non-registered and domestic workers.

Women and men in the formal sector are equally as likely to join a union in Brazil: 28.6 per cent of women and 29.5 per cent of men in 2002, and 30.2 per cent of women and 30.6 per cent of men in 2006, were union members, indicating a slightly swifter increase in women members than men during the period. But in terms of occupation, union membership among women in 2006 (43 per cent) was higher than that among men (40 per cent) only in relation to public service (see Tables 10 and 11 in Annex 1).

The picture, then, is one of falling density in Mexico, and increasing density in Argentina and Brazil, with union membership among women mounting in all three countries, due mostly (but not exclusively) to structural changes in the labour market, including reduced employment in manufacturing, and increased employment in social services and commerce.

[97] Trajtemberg, Senén González and Medwid (2008), based on the Labour Indicators' Survey (*Encuesta de Indicadores Laborales*, or EIL), which focuses on firms with ten employees or more, but is restricted to five main Argentine urban conglomerates.

[98] Density rate based on the 2001 Life Conditions Survey. Cities of 5,000 inhabitants or more were surveyed and respondents were asked whether "union duties" had been charged on workers' pay cheques. The figures are probably overestimated.

[99] For example, the Rosario Union of Commercial Workers has a strong mutualist tradition in a sector dominated by small companies (90 per cent of which have fewer than ten employees), but some 21,500 of the 31,000 (69 per cent) formal commercial employees are union members (interview with Carlos Ghioldi, 31 July 2008).

[100] For the adult population only (that is, those aged 18 and over).

Recent developments

There have been significant changes in the IR landscape in each of the three countries in recent years. In Brazil, the National Congress passed Act No. 11.648 of 2008 recognizing central federations as part of the legal union structure, the major consequence of which was to grant them a share in the "union tax", thus assuring their financial security. The Act regulates institutions that were previously autonomous and voluntary; it also establishes central federations as workers' legal representatives in State-led tripartite bodies that decide on work-related issues, and demands that they represent workers where unions, federations or confederations are not present, and whenever these call for the central federations to do so. It also requires that central federations represent "by way" of their affiliated bodies.[101] Of the 17 existing institutions, only five had complied with the new regulations by 2008, and mergers were, at the time of writing, expected in the near future.

In Mexico, the relative revolution of the political system in 2000 has inspired important changes among the trade unions.[102] The President of the National Executive Committee of the National Union of Educational Workers (*Sindicato Nacional de Trabajadores de la Educación*, or SNTE), Elba Esther Gordillo, left the PRI and the Federation of State Service Workers' Unions (*Federación de Sindicatos de Trabajadores al servicio del Estado*, or FSTSE) to create both a new public sector peak association, the FEDESSP, and a new party that would get even closer to the Fox administration, which would recognize the new federation in 2005. The second main divide occurred within the Mexican Republic National Mining, Metallurgy and Similar Workers' Union (*Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana*, or SNTMMSRM). The subject of a case study in Part 4, the SNTMMSRM organized important strikes and confronted the Fox administration with vigour; its main leader was subjected to criminal charges and fled to Canada, citing political harrying. While the consolidation of the PAN as a real alternative to the PRI has helped to reduce the punch of the new political front, consensus between government and officially organized labour is less today than it was eight years ago.

In Argentina, the *gremial* map has changed in relation to the *encuadramiento* (jurisdictional) conflicts that were typical of the 1990s, during which employers would increase subcontracting to reduce unions' bargaining power, and the quality of collective agreements and conventions. In truth, employers often preferred to have their work contracts regulated by construction and commercial collective agreements than by others, because wages and working conditions were cheaper in those sectors than in other industries – and economic and political pressures meant that organized labour could rarely resist, further empowering the commercial and construction unions. Unfortunately, no statistics exist on the impact of *encuadramiento* disputes in promoting the aggregation of workers' interests and in improving working conditions, although they seem to have played both roles. The case of call centre workers is notable among recent *encuadramiento* conflicts of this sort and emblematic of the flexibilization of work in telecommunications – a sector that had increased importantly in the 1990s and which had been classified as "commerce". In addition, subcontracted maintenance and security workers demanded inclusion in the jurisdiction of the union representing workers of the contracting company (under which working conditions are better, such as in the Buenos Aires subway), while oil workers demanded exclusion from the category of "construction workers". The Truck Drivers' Union (*Sindicato de Choferes de Camiones*, or SCC) headed one of the most important *encuadramiento* conflicts of recent years. Its Secretary General has been the head of the CGT since 2004 and has close relations with federal government officials.

[101] See http://www.planalto.gov.br/CCIVIL/_Ato2007-2010/2008/Lei/L11648.htm

[102] Even the CT split in 2006, the year of the presidential elections – although the confederations that left the CT returned in 2008.

With the support of the CGT's Arbitral Commission and after a series of conflicts, the SCC managed to force the reclassification of supermarkets' logistics personnel as "truck drivers".[103]

So while there have been important changes in each of the three countries, it is clear that not all have led to a more democratic bargaining process.

[103] Drivers transporting sparkling water were also reclassified.

3. Collective bargaining and social dialogue

While the IR systems in Argentina, Brazil and Mexico are largely legislated, collective bargaining plays an important role, not only because the law requires that labour and capital bargain but also because it sets formal sector wages. In Argentina and Brazil, bargaining has instituted labour rights other than those provided by the IR's legal framework, and in the three countries, many aspects of day-to-day work are now bargained, including flexibility.

In the 1990s, the formal labour market in which collective bargaining took place shrank dramatically, reducing both the coverage of collective bargaining and the number and scope of the bargained issues. In Mexico, collective bargaining was considerably narrowed in scope as an immediate result of the economic changes that reduced State control over important economic sectors, the displacement of manufacturing employment from the centre to the north of the country, and increased informal labour relations and weakened unions. Trends in Brazil were similar. It was only in Argentina – and only in some industries – that the issues negotiated between labour and capital were extended during this period to include functional flexibility measures and industrial restructuring.

Argentina

In Argentina, "conventions" are extensive and broad normative regulations relating to working conditions, while "agreements" define more specific norms.[104] Agreements can be further subdivided into those that fall within a convention (that is, those that are signed by the same parties and in the same jurisdiction, partially modifying the convention's clauses and defining wage increases) and those that articulate a convention across specific firms or sectors, provided that the convention's provisions are respected.

Since 1991, major changes in the economy and in labour market regulations have impacted the dynamics of collective bargaining, affecting not only the quantity of agreements, but also the quality of negotiations in terms of:

- the decentralization of the negotiation process until at least 2003 and its partial reversal afterwards;
- the adaptability of the issues negotiated; and
- the incorporation of criteria related to productivity among the firms.

In 1991, firm-level bargaining represented only 19 per cent of all agreements, while 28 per cent occurred at sector level and 50 per cent at industry level. But in 2002, firm-level agreements accounted for 82 per cent of the whole, agreements at industry level accounted for the remaining 18 per cent and there were no sector-level collective agreements at all – all of which reflects a major shift in the issues negotiated.

In 1991, according to Novik (2003: 10), 40.4 per cent of all agreements set rules relating only to salaries; by 1999, this figure had fallen to 12 per cent.[105] Other important issues bargained during 1991–2002 included:

- working hours (35 per cent);

[104] For example, industry-level conventions, many of which were issued in 1975 or 1988, rule working conditions even in companies without unions.

[105] But salaries remained a major issue. During the period, 23 per cent of all agreements related exclusively to wages, while 20 per cent related to wages and only one other issue (Novik 2003: 9).

- multitasking and teamwork (29 per cent);
- professional training (22 per cent); and
- the mechanisms by which the parties to conflicts are identified.

Although most agreements were set at the firm level, only in four did the union subscribing the document exclusively represent the workers of one particular firm; in all other cases, the accords were subscribed by sector or industry unions (Palomino and Senén, 2006).

So, flexibility was extensively bargained in 1990s Argentina and unions acquiesced to what might be called a "concession bargaining process" (see below). It must be emphasized, however, that organized labour exchanged flexibility at the firm level (in issues related to individual rights) for the preservation of their status at the level of collective rights (relating to union structure, collective bargaining rights and union funds). This has been assured mostly through political bargaining at the State level – that is, direct pressure applied by CGT leaders to the Menem government (Novik, 2001).

As a result of the crisis of the turn of the millennium, in 2002 the coverage of collective agreements was at its lowest – probably less than 40 per cent of the economically active population and less than 65 per cent of the salaried workforce (Abramo and Rangel, 2005). After 2003–04, the trend was reversed as registered salaried employment grew strongly, automatically boosting the number of workers covered by collective conventions, whether ultra-active or newly negotiated.

Until 2006, 83 per cent of urban registered workers in the private sector in Argentina had negotiated their working conditions within the framework of the collective conventions legislation.[106] This proportion represents about 50 per cent of all private sector salaried workers, either registered or not. In 2007, among the workers covered by collective conventions, no less than 91 per cent were covered by industry-level collective bargaining and only nine per cent by firm-level agreements. Agreements comprised the majority of the State-approved instruments (86 per cent), either at firm or industry level, and wages were the main bargained issue (Trajtemberg, 2007).

These increases occurred in a positive political context that combined organized labour strength and economic growth. The State explicitly promoted collective bargaining, while persistent inflation stimulated capital and labour negotiations. The Peronist administration favoured bargaining, both indirectly and directly: in 2002–05, for example, it increased the legal minimum wage and imposed fixed bonuses on active salaries; affected wage scales had to be renegotiated. The State has also closely inspected the bargaining process in industries delivering public services, and intervened by controlling prices and profits (using subsidies).[107] The administrative authority was an important participant in industry-level collective bargaining, which presents particular difficulties due to the wide range of represented parties.

It is important, however, to emphasize that more recent agreements do not differ significantly from those negotiated in the 1990s. According to a CTA study of clauses

[106] The Ministry of Labour (2006) suggested that the remaining 17 per cent negotiated either individually (7.2 per cent) or in tripartite mechanisms (9.4 per cent) "Los convenios por empresa acompañaron la Negociación Colectiva", Ministerio de Trabajo (2006) – figures that must be doubted.

In 2005, according to the ETE – a survey representative of a sample in which 80 per cent of the workers are presumably covered by a convention – only 29 per cent of the respondents claimed to know the convened regulations; 32 per cent did not know whether or not they were covered by an agreement (Aspiazu and Waisgrais, 2007).

[107] Interview with Héctor Palomino, 18 July 2008.

related to work organization and working hours agreed between 2003 and 2007,[108] these clauses generally only ratified the labour flexibility agreed at firm level during the previous decade (Ambruso et al., 2008). Only 19 per cent of the conventions negotiated in the 1991–99 period have been renewed, which may mean that the others were largely considered compatible with the new, flexible IR model and did not have to be revised. Further, figures detailing the participants in collective bargaining during the 2003–07 period[109] differ little from those for 1991–99 (Ambruso et al., 2008), demonstrating that the collective bargaining framework – at least at this formal level – has stabilized.

Brazil

In Brazil, according to the IBGE (2002), 72 per cent of the 6,000 salaried workers' trade unions had bargained collectively in 2001 – a figure that has changed little since 1991 (Cardoso, 1999: 57). The Minstry of Labour and Employment's Labour Relations' Information System (*Sistema de Informações sobre Relações de Trabalho*, or SIRT) registered some 30,000 collective instruments in 2004, and again in 2005 – figures that are, again, similar to those of 1991 (ibid). So despite the strong legislated character of the Brazilian IR model, collective bargaining mobilizes organized labour's energies every year.

The same IBGE census shows that manufacturing workers' organizations were responsible for the majority of the collective bargaining events. In fact, while these unions comprised only 16 per cent of the total number of representative institutions and had only 13 per cent of the total union members, they were responsible for 36 per cent of the negotiations. Of these, 28 per cent were union-to-union bargaining resulting in collective conventions, and 68 per cent were negotiations between unions and firms, resulting in collective agreements.[110] In contrast, agricultural unions comprised 34 per cent of the total institutions and 47 per cent of the union members, but signed only 9 per cent of the agreements. This means that collective bargaining is most common among urban trade unions and that it occurs mainly at the firm level.[111]

Collective bargaining in Brazil has traditionally focused on wages *bargaining* (Noronha, 1998); most non-wage issues involved either extensions to, or replications of, CLT provisions. Only strong unions in bank, oil, chemical, metallurgic and a few other industries managed to create new individual and collective rights.[112] As in Argentina, in many respects, bargaining was used as a way to lend legitimacy to the labour code and to marginally improve its encompassing provisions – but this changed importantly in the 1990s.

The Interunion Department of Socio-Economic Studies and Statistics (*Departamento Intersindical de Estatísticas e Estudos Sócio-Econômicos*, or DIEESE) (1997) identified three distinct new trends.

[108]The sample does not include collective agreements, only conventions, because the agreements are dedicated mostly to wage clauses, while the CTA was interested in the other, non-wage issues.

[109] National unions and national federations exclusively bargained 70.8 per cent of the 2003–07 conventions; federations were present in 6.4 per cent (associated with local unions); and local unions were exclusive negotiators in 21.5 per cent. The remaining 1.3 per cent comprised negotiations that included a national and a local union.

[110] See http://www.ibge.gov.br/home/estatistica/populacao/condicaodevida/sindical/sindicato2001.pdf (p. 41).

[111] Public servants comprised seven per cent of the bargaining movement, 41 per cent of which occurred between national unions and the federal administration.

[112] For example, the ABC Metalworkers Union was the first to include the right to access plant-level workers during elections in a collective convention (in 1980) and the right to inform workers about its activities (in most cases, in panels installed inside the factories). These rights would slowly spread to other strong CUT (and also FS) unions. The São Paulo Bank Workers' Union negotiated a six-hour shift in 1983, five year before its inclusion in the federal Constitution. For the new rights negotiated by organized labour in the 1980s, see Tavares de Almeida (1992).

1. Employment (and not wages) came to the fore as the main bargained issue – but unions could bargain only minor clauses. Some related to maintaining or increasing numbers of jobs, including a guarantee of employment levels during a particular period, the reduction of working hours to secure jobs temporarily, the elimination of overtime, and job security during restructuring due to new technologies. The majority of the other clauses represented no effective gains beyond the existing legal rights.[113]

2. Even though training related to restructuring appeared in some collective conventions, generic and ineffective clauses prevailed. Agreements establishing such things as minimum investment in training, numbers of workers affected and numbers of hours were extremely rare, as were those establishing protection in cases of economic restructuring and technological change.[114]

3. As in Mexico, "essential guarant[e]es 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 also absent" (DIEESE, 1997: 62) – an important issue limiting the possibility of bargaining in good faith. Without access to information on a firm's economic performance, unions must restrict their demands to what the employer unilaterally defines as "possible" in the new, competitive economic environments. Much like Argentina and Mexico, many negotiations in the 1990s took place under threat of firms closing or leaving the country. As a consequence, even strong unions such as the SMABC had to resign fringe benefits and other important rights that had been painstakingly obtained in the 1980s.[115] As in Argentina, collective bargaining was strongly decentralized, with collective agreements (between one union and one firm) prevailing over collective conventions (all of the firms of a municipality; see Oliveira, 2003: 292).[116]

By the turn of the millennium, then, Brazilian workers had already conceded most of that which they were asked;[117] most new bargaining simply replicates (although it sometimes intensifies) the concessions already made in the 1990s.

Much like Argentina, the new favourable economic and political environment in Brazil helped to strengthen the unions' bargaining position. Economic growth after 2003 changed the bargaining landscape in at least two important ways: first, flexible working hours entered the bargaining agenda in quite an unexpected way; second, the Participation in Profits and Results (*Participação nos Lucros e Resultados*, or PLR) was created by the 1988 Constitution.

In 1998, the Cardoso administration instituted the "bank of hours", extending the traditional wage basis from the week to the year (CLT, art. 59). The system is well known: during periods of economic growth, workers work more hours without overtime pay; these hours are added to a "bank of hours" that will offset periods of economic downturn, during which workers will work fewer hours for the same annual salary. If dismissed during a downturn, workers are entitled to retrospective pay for the full overtime hours.

[113] For example, in many agreements, the DIEESE found clauses granting job security to workers in special conditions (handicapped; suffering work-related diseases or accidents; pregnant women) who were already protected by the CLT.

[114] Cotanda (2008: 646) analyses collective conventions issued from 1990 to 2005, and confirms the previous DIEESE findings: "We observed that the agreed-upon terms were not enforced in practice, revealing that the trade unions' influence in innovative processes was merely 'apparent'."

[115] The same happened with the metalworkers of the region of Campinas, in the west of São Paulo State (Araújo e Gitahy, 2003: 105–6).

[116] A more comprehensive study is Oliveira (2002).

[117] Literature on the matter is not abundant; see Camargos (2008) for a good survey of the recent debate.

After two or three years of the institutionalization of the "bank of hours", the Labour Court was overloaded with individual workers' demands against firms that were not complying with the legal provisions. Many were simply dismissing workers during downturns without paying for the overtime worked previously and leaving disputes to be decided by the Court, in which cases, workers were driven by economic needs to give up some of their rights. When the economy started to grow strongly in 2004, some unions would refuse to sign "bank of hours" agreements again, supported by the Labour Court, which would finally (in 2007) concede that the "bank of hours" benefits only employers and require its regulation by collective agreement.[118] CUT and FS are strategically focused on the reduction of working hours (from 44 to 40 hours per week), and are lobbying the Brazilian Parliament to end the "bank of hours", while instructing their affiliated unions to oppose agreements on the matter.[119]

The "bank of hours" legislation reveals an important (and structural) aspect of the Brazilian IR system: the Parliament instituted the provision in response to pressure from employers' associations, supported by the FS;[120] once enacted and because the new law mandated collective bargaining of its consequences, trade unions and employers' associations throughout the country had to include a new issue in the bargaining agenda – in this case, an issue crucial to the flexibilization of working hours at a time of major industrial restructuring. If it were not incorporated by the political system as a matter requiring regulatory action, the Labour Supreme Court would judge flexible working hours illegal and this kind of flexibility would not be bargained whatsoever. Most importantly, non-compliance by employers would result in judicial disputes, which is the very essence of a *legislated* IR system, in which bargaining has a secondary (although legally mandated) hold and the Labour Court has the last say in validating the labour law.

A second factor which changed bargaining in Argentina is PLR, created by the 1988 Constitution (art. 7(XI)) but regulated only by Act 10.101 of 2000. Even before this regulation, some strong unions had managed to negotiate PLR;[121] but only after 2000 did it mobilize unions' bargaining efforts and strategic action programmes. The importance of this issue in recent collective bargaining trends – especially in manufacturing and some services sectors – is illustrated by some selected strike statistics, also collected and summarized by the DIEESE. In 2004, PLR was a demand driving only eight per cent of all strikes (including public and private sectors) – but workers in manufacturing demanded PLR in 24 per cent of strikes.[122] In 2007, PLR was the single most important issue demanded in manufacturing strikes (37.3 per cent, compared to 27.7 per cent demanding wage increases). This is a clear indication of a growth in wage flexibility and of the increased fragmentation of collective bargaining down to the company level.[123] The small

[118] Although the 1998 law provides that the "bank of hours" must be collectively bargained, the previous jurisprudence accepted individual contracts: see http://jus2.uol.com.br/doutrina/texto.asp?id=7727

[119] The CUT's FUP admits "compensation of hours" only for administration workers. In 2003, the resolutions of the Fourth ABC Metal Workers' Congress stated that plant-level union representatives should pay "strategic" attention to the operation of the "bank of hours" (see http://www.smabc.org.br/conteudo/doc/Congresso2004.pdf, p. 33). The issue was not present in the resolutions of the Third Congress (1999). For the CUT's position on the matter, see CUT (2006). In 2005, Congress Member Vicente Paulo da Silva, a former CUT president, placed an Act Project in Congress regulating overtime and the "bank of hours". The Project is still awaiting peer review, but the intention is to abolish the 1998 provision altogether.

[120] Paulo Pereira da Silva (Paulinho), then FS president, offered congressmen a version of the law that was accepted and enacted with little or no amendment. Paulinho and the Federation of Industries of the State of São Paulo (*Federação das Indústrias do Estado de São Paulo*, or FIESP) agreed upon the law after the Supreme Labour Court rejected a collective agreement clause negotiated in 1997 between the São Paulo Metal Workers' Union and the FIESP that extended the compensation of working hours from the week to the year. The Court judged this illegal, so the two representative organizations pushed for a new law.

[121] Bank workers' unions first negotiated PLR in national agreements in 1995 (see Carvalho, 2006: 83).

[122] And yet 55.6 per cent of the 302 strikes that the DIEESE noted for 2004 demanded wage increases, compared with only 35.2 per cent of the strikes in manufacturing.

[123] In other words, if PLR must be negotiated at the firm level and if 37.3 per cent of all strikes were related to PLR, then more than one third of the strikes in 2007 targeted the firm. (In 2004, the figure was 24 per cent.) So, there has been an important

number of strikes also shows that the flexibilization process is not overtly conflictive, and that firms and organized labour have incorporated PLR as a labour right.

More than 40 per cent of public-sector bargaining in Brazil occurs at the federal level. Health and education public servants' unions are very active and politically oriented, and their bargaining is mainly wage bargaining. But they have historically (and so far in vain) also demanded the introduction of structured career progression, and better working conditions in hospitals and universities.[124] Public servants, rather than private sector workers, are also responsible for the majority of bargaining conflicts (see below).

Mexico

In Mexico, two forms of collective agreement are defined in law: the collective contract (and convention) and the *contratos-ley* (law contracts). The latter are signed in seven manufacturing branches, cover a relatively small number of workers and have very stable dynamics: in 1995, seven contracts regulated 1,206 firms and 104,000 workers;[125] in 2006, the same seven contracts covered 1,600 firms and 100,000 workers. These contracts are revised every year, either in whole or only in relation to their wage clauses.[126] But while Bensusán (2000) argues that the law contracts should be the institutional form of industry-level collective bargaining, employers try to avoid them, alleging rigidity.

As in Brazil, the majority of the bargaining activity occurs at the firm level and results in collective contracts or conventions. Some 8,000–10,000 contracts and conventions are revised every year in Mexico. From 2003 to 2007, there were almost 21,000 agreed conventions alone, of which 12,500 were motivated by wage revisions, 2,000 by contract revisions and 1,500 by compliance with the agreed contract or convention.[127] Only 193 revisions were motivated by changes in work conditions, supporting the argument that unions in Mexico do not bargain regarding the in-firm organization of work (De La Garza, 2000).[128]

Of the issues bargained in the 1990s, however, the most important was task assignment (see Table 12 in Annex 1).[129] This is an important issue in the organization of work and, in Mexico, it relates to the *escalafón* tradition – that is, strict job design and the rules of promotion within the hierarchy. This explains why, in 1992, the proportions of bargained issues relating to task assignment and promotion were very much the same in firms of all sizes: in 1992, the proportion of big firms that negotiated task assignment was 75.3 per cent, while 73.5 per cent negotiated promotion; the figures in medium-sized firms were 74 per cent and 66.7 per cent, respectively. But in 2001, 72 per cent of big firms

increase in firm-level conflicts in a scenario of stable numbers of strikes, supporting the argument that bargaining has increasingly fragmented.

[124] The federal government is responsible for the provision of higher education. The provinces provide secondary education (9–11 years) and municipalities provide fundamental education (up to the age of 8).

[125] The seven industry branches are: silk, synthetic and artificial fibres; wool; two minor textile branches; sugar; coal mining; radio and television. Sugar is the bigger employer in this group, but four of the contracts relate to the textile industry (Arciniega Arce, 2002).

[126] See http://www.empleo.gob.mx

[127] Ibid.

[128] Productivity is also part of wage bargaining, but in the form of annual bonuses varying from 2 per cent to 3 per cent of workers' salaries (Alcalde, 2006; De La Garza, 2006c) and restricted to a small part of formal wage earners. For example, in 2000, only 3,000 of more than 45,000 federal and local wage revisions included productivity bonuses. In 2007, the number of workers favoured by these clauses was less than 11 per cent of those covered by collective bargaining instruments: see http://www.stps.gob.mx/DGIET/web/menu_infsector.htm (accessed Nov. 2008).

[129] The table is based on an important data source on collective bargaining and other work-related issues: the National Employment, Wages, Technology and Skilling Survey (*Encuesta Nacional de Empleo, Salarios, Tecnología y Capacitación*, or ENESTyC), a sample survey that collects information on manufacturing firms since 1992. The sample has changed from one year to the next, so annual data are not strictly comparable.

negotiated task assignments, but only 51.4 per cent bargained promotion; among medium-sized firms, the divide was even more pronounced (61.3 per cent and 30 per cent, respectively). This disconnection of the two issues is clear evidence that the intensification of work restructuring in the 1990s led to the flexibilization of the *escalafón* system (Cardoso, 2004).

In addition, De La Garza (2000) argues that strategic issues – such as the introduction of new technologies, changes in work organization, the employment of subcontracted workers and the creation of confidence jobs – are bargained only in a very small proportion of big and medium firms. Dismissals are bargained in less than one third of the bigger ones and in less than a quarter of the medium-sized companies; because unions benefit from exclusion clauses, this suggests the flexibilization of union control over workers' entry to and exit from firms. In 2001, the proportion of firms negotiating quality and productivity was 35 per cent among bigger companies and 23.4 per cent among medium ones, demonstrating high levels of employer discretion in day-to-day labour relations – something that has been noted as a direct consequence of economic restructuring during the 1980s and 1990s.[130]

Most of the weaknesses of organized labour in Mexico result from the fact that the Labour Congress still dominates the collective bargaining process, despite recent political changes, the creation of the UNT, disagreements within the CTM and the CT, and rearrangements within organized labour's main forces and leadership. In 1994, 83 per cent of agreements were subscribed by the CT and its affiliated confederations; in 2007, this figure remained constant at 82 per cent. Similarly, independent unions accounted for 15 per cent of agreements in 1994 and 17 per cent in 2007; other unions represented only two per cent or less.[131] There is, then, evidence of institutional inertia, proving the draw of the official union structure, and the multidimensional economic and political incentives that it grants to organized labour leaders. Political divides are absent in the shape and scope of collective bargaining, which remains restricted to a minor proportion of salaried workers and dominated by traditional, corporatist parties.

The majority of recent collective bargaining efforts focused on salary revision. At the federal level, there were 6,200 revisions in 2007, 75 per cent of which were among firms with no more than 100 employees, granting 1.8 million workers a mean real increase (that is, an increase above inflation) of 0.32 per cent. At the local level, there were 49,000 revisions, granting 1.2 million workers a mean raise of 0.84 per cent. Until August 2008, mean real gains were only 0.06 per cent and 0.22 per cent.[132] So while 3 million salaried workers had their wages bargained in 2007, this means that wage bargaining benefited only 10 per cent of the Mexican labour force, most of whom had negligible real gains.

In jurisdictions A and B, wage bargaining is effective if, and only if, permitted by the State-controlled union structure. Collective bargaining has actually deterred the transference of productive gains to wages and these reflect global State economic policies, in which competitiveness is the main rationale. In truth, collective bargaining across most of Mexico is more a form of institutionalized struggle among different union federations for control over the collective bargaining machine (which grants them control over the union structure as a whole) than it is a real distributive mechanism. As a consequence, wage levels and the majority of working conditions are deeply dependent on legal minimum standards, and have little to do with market dynamics, including productivity curves (Bensusán, 2006b; see also the Introduction).

[130] By, among others, Bensusán (2006); Covarrubias (2006); De La Garza (2006c; 2000; 1998); Dombois and Pries (2000); Bayón (1997); Bensusan, García and Von Bülow (1996); Arteaga (1992).

[131] See http://www.empleo.gob.mx (accessed Nov. 2008).

[132] Ibid.

Mexican specialists in labour relations have also underlined the importance of the *contratos de protección al empleador* (protection contracts).[133] These are unilaterally produced instruments deposited in the labour courts and recognized as a "real" bargaining instrument. They are subscribed by pro-company (or "white") union leaders and are more common now than they were two or three decades ago, particularly among recent job-creating sectors, such as the *maquila*, the call centre and mobile phone sectors, Wal-Mart and the cleaning companies subcontracted by these services. Protection contracts have a single straightforward aim: to protect the company against real workers' organization. In that sense, they clearly distort collective bargaining: workers are often unaware of these protection contracts; only when they try to constitute a union or to bargain collectively do they discover the existing union, and that a collective contract – recognized by the public authorities – regulates their labour relations.

Collective action

In recent years, collective bargaining has only occasionally been supported by collective action in Argentina, Brazil and Mexico, even given that strike statistics are underestimated in all three.[134] The trends depicted in Graph 4 in Annex 1 seem to reflect the complex political and economic interrelations analysed here, including economic adjustment plans, social dialogue efforts and the broader political contexts.

In Brazil, the meagre collective bargaining results during 1996–2003 (when only 38 per cent of the instruments agreed wage increases above the inflation rate)[135] are associated with a strong downturn in the number of strikes (from 1,242 to 340 in seven years). After 2003, the mean number of strikes has always been only slightly above 300 per year, but the majority of the strike activity was concentrated in the public sector. For example, in 2004, 61.3 per cent of strikes occurred in public administration and State-owned companies; in 2005, 55 per cent; in 2007, 50 per cent. Combined with the fact that, during 2005–07, 72 per cent or more of the bargained instruments included wage increases above the inflation rate, with no corresponding upsurge in strike activity, this adds to the hypothesis (see the Introduction) that the new favourable political and economic context, along with MW policies, explains most of what happens with wage levels in the country.

Something similar seems to have occurred in Argentina. Comparison of, for example, strike activity and the evolution of wages in manufacturing (presented in Graph 3 in Annex 1) shows that variation in the former has no correlation with the latter: manufacturing wages were virtually frozen during 1993–2003, while the strikes' curve was

[133] Bensusán et al. (2007) recently analysed these contracts in a study for the Inter-American Regional Organisation of Workers. The study considers the institutional conditions and the history of such collective contracts, and is available online at http://www.fesmex.org/Documentos%20y%20Programas/Informe%20ORIT%20sobre%20Contratos%20Protec%20en%20Mexico.pdf

[134] In Mexico, strike statistics are limited to the legal events – that is, those that follow the LFT provisions, and which are registered by the Conciliation and Arbitrage Courts. Because no information is gathered on illegal, unofficial strikes, it is impossible to judge their importance – but analysts interviewed estimate that this is not negligible. In the paradigm case of mining workers, 22 legal strikes have been registered by the administrative authority between 2000 and 2008, but – according to Cámara Minera de México (2008) – 202 illegal strikes have occurred since 2000, resulting in no fewer than 16 million lost working hours, meaning that official statistics appear to be severe underestimates. In Argentina, the Ministry of Labour started to gather and disclose strike statistics in 2006, based on newspaper reports, and information from workers' and employers' associations. In 2006, it counted 744 strikes – 48 per cent more than the 501 computed by the Centro de Estudios Nueva Mayoría. While the latter source displays a long-term comparative trend, it appears to underestimate the actual strike events significantly. In Brazil, the DIEESE is the only organization to have computed these data on a regular basis since 1992, also based on newspaper reports and union information – but DIEESE itself believes its data to be underestimated. So Graph 4 in Annex 1 depicts only approximate strike activity in each country, even though the general trends must reflect actual seasonal peaks and troughs in industrial conflict.

[135] See Table 13 in Annex 1.

far from steady.[136] During 2001–03, strikes fell sharply as a result of the post-"convertibility" crisis,[137] only to rise again during the recovery period, which largely reflects the aggressive federal government MW recovery policy that forced the renegotiation of collective agreements, especially in the public sector.[138] In the private sector, most employers have resisted levelling professional wages to MW rates, thus also leading to stronger industrial conflict (although never to levels as high as those in the public sector).

Mexico is a special case: strike activity remains stable around a mean of 215 cases per year (at least since 1998). Commerce, manufacturing and construction are responsible for at least 60 per cent of stoppages (INEGI, 2008), while public sector legal strike activity is only residual. But a mean of more than 24,000 *enplazamientos a huelgas* (intentions to strike) are registered every year at the local jurisdiction level;[139] at the federal level, the annual mean for the period 2000–06 was 6,700 intended strikes. So, almost 60 per cent of all collective bargaining events in the period were initiated by an *enplazamiento a huelga* – even though during 1989–93, less than 2.4 per cent of the *emplazamientos a huelgas* actually resulted in a strike, and since 1995 that proportion has been less than one per cent.

The volume of actual strikes is explained by two related reasons. Firstly, if collective bargaining is most frequently initiated by an *emplazamiento a huelga* deposited at the local court, the process is thereafter totally controlled by the administrative authority, which has the power to determine strikes' outcomes. In 2005, for example, 14,700 of all 21,300 *enplazamientos a huelgas* were resolved beforehand, the majority of which (6,300) were resolved by a *desistimiento* (a settlement outside of the court). In 4,250 cases, the *enplazamientos a huelgas* failed to comply with the LFT provisions and were declared void by the administrative authority – meaning that half of all proposed strikes were not "for real" or had no practical consequences; 1,800 intentions were solved by convention or by formal agreement.[140] Even when a strike is declared, it is usually resolved by *desistimiento* (67 cases in 2005) or by an (administrative) arbitration instrument (47 cases); only occasionally is it resolved by convention (11 cases).

Secondly, *enplazamientos a huelgas* are frequently deposited as a way of launching the bargaining process. They rarely signify a real strike threat, not only because most negotiations end before any collective action takes place, but also because a good proportion of the intended strikes fail to comply with the law.[141] This is another important indicator of the weakness of the Mexican labour movement and also of the power of the administrative authority, which can manipulate the legal provisions to frustrate an *enplazamiento a huelga*.[142]

[136] This probably reflects the large proportion of public sector strikes in Argentina as well. According to the same source, 62 per cent of the strikes during 1995–99 occurred in the public sector (61 per cent during 2000–06). These figures are compatible with a more reliable source: of the 744 strikes computed by the Ministry of Labour in 2006, 475 (63 per cent) occurred in the public sector (65 per cent in the first semester of 2007). Manufacturing was responsible for only 7 per cent of all strikes in 2007 (or an annual mean of 13 per cent during 2000–06, according to Nueva Mayoría).

[137] As suggested by Villalón (2008), during the apex of the crisis, industrial conflict was substituted by other forms of contention, including unemployed pickets, road cuts and neighbourhood protests.

[138] See footnote 136.

[139] See INEGI (2008).

[140] A convention has a lower status than a contract and may eventually complement the latter or regulate issues not contemplated in the broader collective agreements.

[141] Studying the case of construction workers' unions, Bensusán (2006) goes further and argues that the *emplazamientos a huelgas* in this sector are simply used by unions to extort good business at the expense of their constituencies.

[142] For example, a paper must be registered at the Conciliation Court at midday, but if the officer registers it at 12:05, the strike will be considered illegal, thus legitimating repressive measures (from an interview with Ben Davis).

Social dialogue and tripartism

Although corporatism has defined IR systems during most of the Argentine, Brazilian and Mexican histories, until very recently, tripartism has been important as a policymaking arrangement only in Mexico. In Argentina and Brazil, military and authoritarian governments used corporatist legislation to repress workers' organizations and to exclude them from the core decision-making mechanisms. While the democratization processes of the 1980s favoured some social consultation experiments, they failed in the context of the State's goals of taming inflation and solving its own fiscal crisis (see Cardoso, 2004).

In the 1990s, the idea of a broader social dialogue was again brushed aside due to the ascendancy of the State-led Convertibility Plan (*Convertibilidad*) in Argentina and the Real Plan (*Plano Real*) in Brazil. The first attempt at social dialogue in Argentina would only occur in 1994, under the Agreement for the Employment, the Productivity and the Social Equity (*Acuerdo Marco para el Empleo, la Productividad y la Equidad Social*) – a Menem initiative to tackle issues such as employment creation, the unions' right to information, the resolution of individual conflicts, safety and health at work, professional training, the revision of bankruptcy legislation and the reform of labour relations (Margheritis, 1999). In 1997, the CGT subscribed another tripartite agreement – the Coincidences Agenda (*Acta de Coincidencias*) – aiming at a consensual reform of the labour code to create new, more flexible, labour market regulations. The dialogue failed to result in a change to the labour law or in employment creation, and was discontinued in the same year.

The crisis of December 2001 brought social dialogue back to the fore. The federal-level Argentine Dialogue (*Diálogo Argentino*) of 2002 cascaded down to fertilize many decentralized attempts at social action. Consensus was reached on important issues such as the need for structural reforms to social policies, based on principles of universality, transparency and social control. At the same time, the Programme for the Unemployed Heads of Households (*Programa Jefes y Jefas de Hogares*) incorporated the reasoning of the Dialogue Tables when applying a minimum income policy to the families of unemployed heads of households. A National Council and Provincial Advisory Councils were created to control and inspect the programme. Meanwhile, the Dialogue Table for the Decent Work (*Mesa de Diálogo para el Trabajo Decente*) was created, headed by the Ministry of Labour, and convening labour and capital federations, and the Federal Council of Labour. It set standards for income distribution, working hours, non-registered employment and job security, beyond the distributive issues that led to its institution (OIT, 2005), and proved very effective in the short and the medium terms – particularly in alleviating the economic conditions of the unemployed.

The most important tripartite mechanism in Argentina is undoubtedly the National Council of Employment, Productivity and the Vital and Mobile Minimum Wage, created in 1991 by the LNE. The Council comprises 16 employers' and 16 workers' representatives, plus 16 State members from different Ministries. The LNE provides that the State is part of the employers' party, but the current administration relinquished this right. The Council's president is named by the public authority (the Ministry of Labour) and the private representatives are named for four years. Decisions are reached by a two-to-three majority rule.[143]

The Council has a broad role that includes:

[143] The 2008 Council had 13 representatives named by the CGT and three by the CTA, which shows that the current federal administration recognizes the CTA's role in representing workers' interests. But the CGT remains the main player and has more representatives than any single employer association. Employers are represented by four rural associations, three strong industry-level chambers (those relating to commerce, banks and construction), five members named by the Argentine Industrial Union (*Union Industrial de Argentina*, or UIA), three named by other third-level organizations and one representing the Chamber of Commerce (*Bolsa de Comércio*). So, the two main actors are the CGT and the UIA.

- defining the maximum and minimum values of the unemployment insurance;
- establishing the content of the "basic needs basket" that is the reference for the MW;
- constituting tripartite bodies to analyse sectors affected by productive restructuring and its effects on workers; and
- recommending employment and training policies.

Most importantly, of course, it defines the level of the MW. The demise of the *Convertibilidad* and resulting inflation have helped to bring the Council to the centre of the political debate in recent years. The State has certainly framed negotiations, but important discussions on the scope of MW increases have occupied the public debates – particularly because the Kirchner administration doubled the MW value, which some employers' associations resisted.

The Ministry of Labour has also strengthened social action agencies within its structure, such as the Tripartite Commission for Men and Women's Equality of Opportunities and Treatment at Work (*Comisión Tripartita de Igualdad de Trato y Oportunidades entre Varones y Mujeres en el Mundo del Trabajo*, or CTIO) and the National Commission of Agrarian Work (*Comisión Nacional del Trabajo Agrario*, or CNTA). Tripartism is also present in the processes of normalization and certification of economic sectors' jurisdictions. There is also sustained action between the Ministry and public and private actors in sectors including construction, metallurgy, agriculture and agro-industry, textile, and food and catering (Tomada, 2007).

The process of social consultation is, then, so important in Argentina that Etchemendy and Collier (2007) argue that it is generating a new IR model that they call "segmented neo-corporatism", based on:

> … tripartite bargaining that produces labour moderation within the framework of accepted (more than negotiated) macroeconomic policy and inflation targets, in exchange for gains, backed by the mobilizational power of relatively autonomous unions. Unlike European neocorporatism, in the context of a highly segmented workforce the gains are restricted to a smaller percent of the overall workforce, and they involve union organizational inducements and formal-sector workers wage benefits, rather than more general social welfare programs that cover the employed workforce. (Etchemendy and Collier, 2007: 40)

With minor revisions, the above might be extended to post-2003 Brazil. The critical difference is that, in Argentina, the advisory and decisional consequences of its tripartite bodies is the subject of wider political propaganda, while in Brazil, the majority of the consultation and decision mechanisms are institutionalized in a more routine way. Most of the neo-corporatist mechanisms now in operation are a direct result of Brazil's 1988 Constitution, which mandates that social policymaking must be designed in national councils, some of which have a stake in decision-making, others of which are consultation boards only. The councils reconcile various State agencies and civil society representatives: frequently, employers' and workers' associations, but also non-governmental organizations (NGOs) and other collective bodies directly affected by their policymaking or advisory activities.[144] In recent years, the Lula administration has also fostered some broader, politically oriented Dialogue Tables.

[144]See Barbosa, Jaccoud and Beghin (2005). The most important national councils are in the areas of: education (*Conselho Nacional de Educação*, or CNE); health (CNS); work (*Conselho Deliberativo do FAT*, or Codefat); sanitation and inhabitation (FGTS); social security (*Conselho Nacional de Previdência Social*, or CNPS); social assistance (*Conselho Nacional de Assistência Social*, or CNAS); food security (*Conselho Nacional de Segurança Alimentar e Nutricional*, or Consea); cities; rural development (*Conselho Nacional de Desenvolvimento da Agricultura Familiar*, or Condraf); and a unified economy (*Conselho Nacional de Economia Solidária*, or CNES).

The Brazilian system of employment, income and work protection is generally financed by the Workers Support Fund (*Fundo de Amparo ao Trabalhador*, or FAT), instituted by the 1988 Constitution to finance the unemployment insurance and the wage bonus.[145] What is important for these purposes is that the FAT has a tripartite Deliberative Council (*Conselho Deliberativo do FAT*, or Codefat), which offers parity to State, and employers' and workers' representatives within a consultation and decision-making structure. In 2005, the Codefat comprised 12 members:

- the Ministries of Labour, Agriculture and Social Security, and the National Economic and Social Development Bank (*Banco Nacional de Desenvolvimento Economico e Social*, or BNDES) had one representative each;
- four central labour federations – the CUT, FS, Brazilian Workers' General Central Federation (*Central Geral dos Trabalhadores do Brazil*, or CGTB) and SDS – were also represented; and
- employer associations, the CNI, CNF, CNC and CNA, each had a seat in the council (Cardoso Jr, 2006: 39).

In 2008, the fusion of the CGTB and SDS changed this composition, but the parity system remains intact. The Ministry of Labour has some primacy in agenda-setting and in forcing government's priorities, but employers' and workers' associations can influence the direction, scope and quality of the resulting policies. As a consequence, the Codefat is a true tripartite, neo-corporatist, decision-making body, which is responsible for most of the Ministry of Labour's policymaking and implementation.

The Lula administration returned social dialogue to the centre of the political arena, by instituting tripartite dialogue councils in many different areas (other than those constitutionally mandated) to advise, support or implement public policies. The most important of these, from an IR perspective, has been the FNT, created in 2003 to propose a reform of the union structure and the labour code. Under the coordination of the Ministry of Labour, it had a complex structure, comprising representatives from the three republican powers (Executive, judiciary and legislative), employers' and workers' representatives, and ILO technicians and international observers. The idea was to democratize the IR system (according to the ILO Conventions), and to stimulate employment creation and the promotion of collective bargaining for decent work.[146]

After discussions throughout the country that enrolled some 20,000 participants during 2004, the FNT gained momentum in 2005 and, against all odds,[147] managed to agree on a global project of reform of the labour law that, if implemented, would change the prevailing law altogether. But the Constitutional Amendment Project (*Projeto de Emenda Constitucional*, or PEC) and the Act Project (*Projeto de Lei*), which were sent to Congress in 2005, are still pending. The 2005 political crisis meant that the FNT's project remained virtually unnoticed; neither was it was part of the discussions of the 2006 presidential campaign, and only in 2007 did discussions concerning the reform re-enter the agenda. But

[145]The constitutional provision was regulated by Act 7.998 of 1990. Every worker earning two times the MW or less is entitled to one Christmas MW bonus per year.

[146] The representation in the Forum reflected the fragmented character of employers' and workers' associations in Brazil. According to official statistics, workers had 42 representatives in the FNT: 21 effective and 21 substitutes. Only one effective and one substitute officially represented two corporatist confederations; all of the other 40 were appointed by six central federations, which were not legally recognized as part of the union structure. The CUT had 12 representatives, FS had ten, CGT had five and the other three had four representatives each.

[147]The odds were against the project for many reasons. According to the president of the National Confederation of Commerce (a peak employers' association), the role of the council was to create "a modern union structure that will simplify and turn workers' social rights more efficient, vis-à-vis the stimulus to the productive investments, full employment and the highest interests of the nation" (*Jornal do Comércio*, 9 Aug. 2003, p. A-17). The ILO Conventions were actually the guiding lines of both the CUT and FS projects, but employers' associations such as the FIESP and the CNI, and workers' corporatist national confederations, opposed ILO Convention No. 87 and others related to the free plant-level organization of workers.

the unresolved issues of the original project[148] made it very difficult to bind the governing coalition to the reform, and both workers' and employers' representatives were ready to deny the project altogether if their interests were ignored.

Another, less visible, subject of social dialogue reveals the limits and variations in practice in Brazil. Subcontracting has been part of the IR agenda since the mid-1990s, when the Cardoso government instituted some new forms of labour force intermediation, such as labour cooperatives, which helped to reduce the proportion of registered jobs in sectors such as construction, textiles, garment, shoes and leather, and many other traditional manufacturing branches, as well as in a range of service sectors, including information technology, consulting and communications.[149] After a series of lower-level labour courts' verdicts condemning subcontracting through workforce intermediation (for example, through work cooperatives) – especially in construction – in the beginning of 2008, the Supreme Labour Court established a precedent that made it illegal to subcontract labour through all kinds of work intermediation agencies. Employers protested and forced the Ministry of Labour, through a working group of which it was head, to set new legal standards for subcontracting. In March 2008, the working group formulated a project to be sent to the Government Secretary (*Casa Civil*) and, from there, to the Brazilian Congress.

The composition of the group was, however, never clear and it never met as a tripartite body. Workers' central federations (CUT and FS) met with the Minister and then with Ministry technicians; employers' associations were consulted in separate effort – but the three partners met only in November, when the project was ready to be sent to the Government Secretary. The project was made available at the Ministry of Labour's homepage for ten days so that public suggestions could be "incorporated in the debate", to be concluded in December. But predictably, given that the Ministry of Labour established the group in response to employers' demands and included workers' representatives only to legitimize the resulting policy, the latter argue that the project represents only companies' juridical security, not workers' interests in decent work standards[150] – revealing the limits of social consultation when there is no strict mechanism that assures the partners' compliance with decisions.

Social consultation has helped to legitimize policies that would otherwise be difficult to approve in Congress, such as the social security reform of Lula's first term. Some councils have operated as true policymaking mechanisms, including the Codefat, the National Health Council (*Conselho Nacional de Saúde*, or CNS) and the National Council of Food Security (*Conselho Nacional de Segurança Alimentar*, or Consea). But conflicts arise that cannot be resolved at the council level: some decisions are not binding, because the final shape of the policies depends on Congress or the federal Executive, which retains responsibility for in-depth, substantive reforms. But social consultation has played an important – albeit sometimes more symbolic than practical – role in the last five or six years.

Because of the very nature of the corporatist structure of the State, Mexico has a long tradition of social dialogue. As extensively analysed in Cardoso (2004), however, the social pacts and action procedures of the 1980s and the 1990s were designed to grant State administrative and political authorities legitimacy in implementing unilaterally formulated social and economic policies – and the regime change of 2000 failed to change this.

[148] The FNT left to Congress decisions including those on eliminating the "union tax" and *unicidade* measures, and flexibilizing the labour law and changing the labour courts' role in collective bargaining.

[149] There is plenty of literature on the matter in Brazil. Good works on manufacturing are those of Lima (2007; 2002), and on information technology and communications, those of Guimarães (2008; 2007).

[150] The CUT was represented by the president of the National Confederation of Financial Sector Workers (*Confederação Nacional dos Trabalhadores do Ramo Financeiro*, or CONTRAF), and the Centre's opposition to the project is summarized online at http://www.contrafcut.org.br/noticias.asp?CodNoticia=15186

Since 1987, a series of socio-economic pacts convened State, labour and capital, and enacted distributive, growth and employment policies, some of which also tried (and failed) to reform the IR system. For example, the first Economic Solidarity Pact (*Pacto de Solidaridad Económica*, or PSE) saw PRI-ist employers', workers' and peasants' associations jointly designing income, fiscal and monetary policies with which to control inflation; it was subscribed three days before the outbreak of a general strike invoked by the CTM that, without the support of the other official unions, was doomed to fail. Intended to be only temporary, the PSE was renewed and broadened in 1988, and in each of the years to follow. But while these pacts were effective in controlling inflation and fostering economic growth in the 1980s and beginning of the 1990s,[151] real minimum salaries were negatively negotiated and explicit wage restraint policies imposed, allegedly towards job creation.[152]

Apart from growth and productivity pacts, in 1995, the workers' CTM and the Mexican Employers' Confederation (*Confederación Patronal de la República Mexicana*, or COPARMEX) issued the New Labour Culture (*Nueva Cultura Laboral*) in reaction to a PAN initiative aiming to reform the corporatist union structure and improve a series of workers' social benefits, which would increase labour costs. One of the agreed principles stated that the New Labour Culture should be based on social action and dialogue, and on a unity of effort among employers' and workers' organizations.[153] But the pact failed to result in any institutional change that would modernize cooperation or dialogue between the IR partners. The union structure remained intact, with its various, weak unions incapable of assuming their new role in the context of corporate responsibility that the pact intended to establish. The soundest result has probably been an agreement to make information processed by the STPS about unions and union density more transparent.[154]

The main social dialogue effort of the new regime has been establishing round tables to discuss the reform of the LFT. The Central Decision Table was set up in mid-2001 and, until February 2002, the STPS tried in vain to define a consensual project uniting employers' organizations, the CT and the UNT. Instead, the UNT worked on one project, unified with another produced by the PRD in November; in December, the CT presented another, supported by the STPS. In fact, CT's project was elaborated by the STPS itself and includes important ideological differences from Mexican IR tradition, because it incorporates concepts of the Catholic Church's Social Doctrine and is identified with employers' demands for a flexible legislation. The UNT project incorporated the same rationale, outlining the idea of a common capital–labour interest in the new globalized economy (De la Garza, 2006a). In the UNT proposal, the negotiation of work conditions is more clearly defined, as is the goal of a democratic unionism, partly explaining why this project is confronts Mexican corporatism more aggressively – a step that the STPS, committed to stability, was unwilling to take.

Among other measures, the UNT project establishes that the represented workers should decide any issue related to the legitimacy of the representative union, including jurisdiction issues and acceptance of collective agreements, in secret, democratic elections. It also establishes that union members are entitled to full information about their representative institutions, including changes in statutes, internal organization and

[151] Inflation rates fell from 13 per cent in December 1987 to 1.2 per cent per month in the second half of 1988. During the first four years of the action, inflation fell from 160 per cent to 19 per cent a year, without major recession. After 1988, the economy grew at a mean rate around four per cent until 1994 (see Bisberg, 2001; Bensusán, 2000).

[152] Minimum wages fell 42 per cent and contractual wages fell 29 per cent during 1989–99 (Bensusán, 2003: 11). Mean real wages in manufacturing grew during 1991–94, but fell again subsequently, despite 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 job creation strategies clearly stated or targeted; the main issues were productivity, inflation and economic growth.

[153] See http://www.stps.gob.mx/cultura_laboral/cult_lab.html

[154] The inaccuracy of the Secretary's information system used to be an important instrument of PRI's control over the labour movement (Bensusán, 2000; Bizberg, 1998).

subscribed collective instruments. The project proposes the reform of the federal Constitution to suppress jurisdiction 'B' of art. 123, derogating the law that regulates it.[155] But one of the most important proposals is the replacement of the Conciliation and Arbitration Boards with professional labour judges.[156] Of course, while the implementation of a global reform is on the agenda for all strategic Mexican actors, it is not yet visible on the political horizon.

In all three countries, then, collective bargaining and social dialogue are important negotiation mechanisms that sometimes influence and feed one another. In recent years, social dialogue has played a very important role in the overall IR governance, and in Argentina, it has helped to rebuild the State apparatus and its very legitimacy. But in Mexico, the varied character of the labour movement turns social dialogue into a control, rather than an inclusive, instrument; in Brazil, the institutionalization of many dialogue channels is helping to create an unprecedented partnership culture, the consequences of which are still difficult to grasp.

[155] That is, the Federal Workers at the Service of the State Act, which the ILO also criticizes.

[156] There are many reform proposals: the set of projects now in discussion by the Mexican Congress can be found online at http://www.diputados.gob.mx/comisiones59legislatura/trabajos_prevision_social/ini_reforma_LFT.htm
The UNT/PRD project is available online at
http://www.diputados.gob.mx/comisiones59legislatura/trabajos_prevision_social/docts/reformas/58-105%20_PRD.pdf
The PRI project is available online at:
http://www.diputados.gob.mx/comisiones59legislatura/trabajos_prevision_social/docts/reformas/58-115%20_Sectores_.pdf

4. The quality of industrial relations

Argentina, Brazil and Mexico are each characterized by large informal labour markets. In relation to formal sector workers,[157] the potential reach of collective bargaining in Argentina was around 45 per cent of the EAP in 2006 and 66 per cent of salaried workers (domestic service excluded). Potential figures were (respectively) 61 per cent and 76 per cent for Brazil in 2006, and 42 per cent and 61 per cent for Mexico in 2005. However, the actual bargaining reach in Argentina was certainly much lower than in Brazil and Mexico, due to legal provisions which excluded the armed and police forces in the three countries and public servants in Brazil and Mexico. In Mexico, economic constraints make it almost impossible for small and micro firms (which account for almost 45 per cent of all jobs) to comply either with the labour law or with collective agreements. Industry-level and municipality-level bargaining in Argentina and Brazil are no remedy for such constraints, despite the fact that the labour courts can be called upon to compel employer compliance.[158] Actual coverage probably does not exceed 35 per cent of the EAP and 60 per cent of the salaried workforce in Argentina and Brazil, and in Mexico, things are even worse: collective conventions are estimated to cover little more than seven per cent of salaried workers.[159]

Narrow bargaining coverage in varied segmented labour markets with large informal sectors gives the State a central structuring role in labour market governance: firstly, by way of the law and the institutions created to ensure its enforceability, including labour inspection; and secondly, through State-led redistributive policies, such as minimum wage and minimum income policies. This does not mean that collective bargaining is not important where it exists; rather, it means that it is limited to the legally defined constituencies and that its results cannot be applied to the entire workforce (salaried and self-employed). Extension mechanisms stop at the borders of the informal economy and the sample of small companies.

The strongly legislated character of the IR systems in the three countries makes wages and other pecuniary benefits the centre of collective bargaining efforts. Other issues are obviously part of the agreements, but many of them occupy a subsidiary position and then only affirm or slightly improve the legal provisions. This is clear in the bargaining of gender issues in at least Brazil and Argentina. Abramo and Rangel (2005) analysed 1,759 Argentine and 94 Brazilian conventions (along with those of other Latin American countries) and showed that the mean number of gender clauses per convened instrument in 1996–2000 was 2.3 in Argentina and 4.4 in Brazil – a clear indication that gender issues are important in collective bargaining in these two countries, contrary to common wisdom.[160] Moreover, in Brazil 94 per cent of the analysed conventions had at least one

[157] See Table 4 in Annex 1, and considering contributors to social security.

[158] Cardoso and Lage (2007) show that small and micro firms in Brazil seldom comply with the labour law, and even less often with collective agreements. Twenty workers are needed to create a union in Mexico, which means that firms with fewer employees have none. For example, only 2.13 per cent of the Mexican micro firms in manufacturing had unions in 2004, according to the ENESTyC; in small firms, the proportion was 36 per cent. This explains why it is these firms that regulate labour relations (70 per cent of the micro enterprises in manufacturing did not bargain the organization of work, even though they represent almost 90 per cent of all existing enterprises).

[159] Data provided by Carlos Salas from ongoing research, but it is probably underestimated. While nearly 3 million workers had their collective agreements bargained in 2006, this represented only 10 per cent of the EAP and 17 per cent of the salaried workforce.

[160] Haas (2001: 161), for example, is very peremptory about Brazil: "[…] the demands of female workers are rarely incorporated into CUT collective negotiations, and there is little research undertaken by unions on the actual number of female workers or on the conditions under which they labour. Efforts to analyze the impact of gender on the relationship between the worker and capital are rarely made. And there is no attempt to educate and sensitize the majority male membership to gender issues outside the efforts of women themselves."

gender clause, but 57 per cent of the Argentine gender clauses (25 per cent in Brazil) were exact replications of the labour law. Of the remaining 43 per cent (75 per cent in Brazil) of newly bargained women's rights, a good proportion merely extended legal provisions relating to issues such as maternity and paternity leave, the security of pregnant women and working hours, crèches, nursing time and care for sick children.[161] In this sense, when it comes to gender issues, the Argentine IR system is even more legislated than that of Brazil and many collective agreements simply transcribe the labour law, giving it legitimacy at the industry or firm levels.

It is true that in both countries, new (or extended) rights were important in setting women's work conditions (97 per cent of the bargained clauses in Argentina and 95 per cent in Brazil were new rights) such as training, safety and health at work and working hours. Other important new rights related to "family responsibilities" (52 per cent affirming legal provisions in Argentina and only five per cent in Brazil), including special licences to take care of children or family members, health assistance to the family and adoption-related rights (such as adoptive maternity leave). Meanwhile, gender discrimination at work (which represented only four per cent or less of the gender bargained issues) was present in a few instruments, but they merely extended the law in Brazil (94 per cent), while in Argentina 53 per cent of the clauses were bargained.[162] It is clear that the law is the standard against which gender issues are bargained in the two countries and this is true for most non-wage clauses.

Another important similarity is that the negotiation of flexibility and the organization of work in the 1990s must be characterized as concession bargaining in all three countries. By concession bargaining we mean organized labour passivity in the face of capital's unilaterally designed restructuring measures, backed by unemployment and bankruptcy threats. In the new millennium, the scenario is apparently more favourable to workers in Argentina and Brazil, but not in Mexico where the rate of firms' internal work regulations seems to be shrinking year on year.[163]

Organized labour has not, however, included the organization of the informal sector as a strategic issue in any of the three countries, other than in relation to the CTA in Argentina and the CUT in Brazil. The increase in registered employment in recent years in both countries has strengthened this position, which is also supported by the fact that, in both cases, jurisprudence and the Ministry of Labour have always opposed the unionization of non-salaried workers. Neither has this segment of the labour force been organized successfully in Mexico; because it takes 20 employees to constitute a union, a "union" is legally defined as a wage earners' institution.

While it is true that flexibility is now incorporated into the core of the organization of work in the three countries, however the patterns vary in many crucial ways. In Mexico, even larger employers are increasingly imposing flexibility unilaterally. In Argentina, it is bargained in sectors with strong union presence. In Brazil, managing flexibility is increasingly a cause of conflict.

[161] Twenty per cent of the bargained new rights in Argentina and 28 per cent in Brazil referred to crèches and taking care of sick siblings.

[162] Gender is apparently absent from the traditional Mexican bargaining scenario. According to Brickner (2006: 2), democratic unions "are more likely to address the rights [of] women workers in union statutes and collective contracts than are Mexico's 'official', non-democratic unions". She also notes that, in spite of this, "feminist leaders in corporatist unions have had some successes in drawing attention to the rights of women workers". Bensusán and Cook (2003) corroborate these statements.

[163] See Part 3 in relation to the flexibilization of the *scalafón* system.

Box 2.
Concession bargaining in the 1990s

In 1997, the car manufacturer Volkswagen (VW) threatened to dismiss 10,000 of the workers at its ABC Region plant, in the São Paulo metropolitan region, unless it reduced 2.3 per cent of its production costs. After harsh negotiations, the strong SMABC relinquished fringe benefits and other fiduciary rights collectively agreed in the 1980s, amounting to the 2.3 per cent demanded by the company. Layoffs were suspended, but the company offered a "voluntary redundancy" scheme, which nearly 2,000 workers joined. In 1998, VW threatened to move the plant away from the ABC region unless it could dismiss 7,500 workers. The SMABC negotiated a reduction of 15 per cent in salaries and working hours in exchange for job security for 12 months. But in the following years, the company would not replace retired workers and also increased its traditionally low turnover rates. These measures resulted in the loss 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 the company promised would create jobs – a promise that has not been fulfilled.

In December 1998, the Ford Motors Company announced the dismissal of 2,600 of the 6,000 workers at its São Bernardo do Campo plant, also in the São Paulo metropolitan region. A long strike took place and, after 44 days of acute negotiations between the parties, all workers were recontracted. The company started a "voluntary leave" scheme and, in a press release, the workers' unions and company's executives announced the creation of a bipartite commission to study mechanisms to improve the plant's productivity. But in July 2003, the plant had 4,000 workers – 2,000 fewer than five years before.[164]

In Mexico, after a 60-day strike in 1992 in which workers protested against the company's plan to discontinue assembly lines and restructure the organization of work, administration at the VW Puebla plant dismissed all of them. 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, some workers were hired back – but with no trade union exclusion clauses, and forced to accept the flexibilization of the scalafón system and the introduction of new forms of work organization (including cellular production, continuous improvement systems and total quality control). After this, 3,000 jobs were lost and the number of union stewards fell from 200 to 16 (Dombois and Pries, 2000: 89-93).

In Argentina, flexibility measures were negotiated in a more favourable way (from an organized labour perspective) in the same period. Flexible working hours, flexible contracts and the flexible organization of work were bargained, along with measures fostering the auto-composition of conflicts, and creating internal consulting mechanisms with which to negotiate norms and methods of work. Novik (2003) hypothesizes, however, that unions had to concede in face of the threat posed by growing unemployment rates and due to the firm's threats of moving to other countries within the Mercosur region. But as a rule, there has not been any trade-off of flexibility for job security except in particular firms, and when it has happened, it has been for only short periods of time.

In Argentina, industry-level collective bargaining means that it is now easier to protect and level the labour standards of subcontracted workers than it is in Brazil, an important development of the new millennium. In fact, in the 1990s, supported by the administrative authority, employers employed two main strategies to reduce costs: they would not register any of the workers whom they hired; and they would contract workers under the framework of collective conventions that were more "favourable" to the employer. Conventions of commercial and construction unions were used in manufacturing or services, especially in the case of subcontracted workers, who, while unionized, worked for a third party or belonged to a union other than that regulating the firm. This is still the case in many respects, but the increase in registered employment in recent years and the intervention of the administrative authority have strengthened the position of workers. Unlike that of the 1990s, during which the Ministry of Labour forced the decentralization of the bargaining process and overlooked the actual "illegality" of working conditions,[165] the present-day administration coordinates the bargaining of most national conventions.[166] This reduces the transaction costs of both workers' and employers' associations, which have to coordinate complex internal offshoots and political divides. In this context, in

[164] For details on both cases, see Cardoso (2003: ch. 1).

[165] Informal jobs mounted in the 1990s and many collective agreements did not hold in day-to-day labour relations (see Novik, 2003).

[166] Interview with Marta Novik, 18 July 2008.

sectors in which workers' bargaining power is stronger, new and better work conditions are being negotiated and implemented; other, weaker, unions use these results to force their own position in the bargaining process, backed up by the public authority. This is actually a very innovative form of pattern bargaining, in which the pattern is set by stronger unions (sometimes in tripartite negotiation bodies headed by the administrative authority), with the explicit aim of wage recovery as a means for the activation of the economy. Also, the government's commitment to real wage increases is reducing the importance of subcontracting as a means for wage restraint and flexibility. The results are astounding: according to official statistics, in 2002 wages represented 34.6 per cent of the national GDP; in 2006 the share had grown to 41.3 per cent as a result of both collective bargaining and MW policies.[167]

In Brazil, there have been a series of U-turns (or planned U-turns) in the legal framework that assures flexible working hours and contracts. On the one hand, the Labour Supreme Court declared many forms of subcontracting enacted during the 1990s unconstitutional (including work intermediation and work cooperatives). Organized labour had little to do with it, because the decision resulted from the routine consolidation of jurisprudence. On the other hand, the National Congress is discussing the "bank of hours" and may extinguish it at any moment. Important unions (such as the CUT's oil workers' FUP) are trying to include subcontracted workers as their direct concern.[168] But in Brazil, unlike in Argentina, pattern bargaining is restricted to the industry level in a municipality (for example, a municipal union sets minimum bargaining levels and firm-to-firm bargaining negotiates better conditions within the framework of the larger instrument) and such a measure has not been successfully negotiated by other unions even within the CUT.[169]

In Mexico, flexibility is "negotiated": a good proportion of large and medium firms that responded to the ENESTyC acknowledge that the organization of work is regulated either by internal rules, or the law, or else by collective bargaining. But according to the 2004 ENESTyC, only 11.7 per cent of the big manufacturing firms (6.18 per cent of medium firms) bargained subcontracting[170] and only 15.6 per cent of the big firms bargained changes in the organization of work. This does not mean that changes are not being made; rather, it means that they are not regulated by collective agreements. While 62 per cent of the big firms bargained working hours, only 27 per cent of the small ones did so.[171]

Another important difference is that the pattern of IR in Argentina has combined a segmented neo-corporatism with State-favoured decent work standards – something that Brazil had started to discuss in the beginning of the Lula administration, only to abort in the second term, and something that is not visible on the Mexican horizon. Argentina has fully adopted the ILO's "Decent Work" agenda and has constituted tripartite bodies to foster its various dimensions. This has resulted in a less conflictive IR scenario, supported

[167] A good evaluation of the bargaining process in Argentina during 2002–06 can be found in Trajtemberg (2007). But Graña (2007) presents different figures: the participation of wages in GDP may have fallen from 38.5 per cent in 2001 to 28.4 per cent in 2005.

[168] The FUP negotiated with Petrobras the constitution of a commission that met every three months to set subcontracted workers' labour standards.

[169] Subcontracting is sound in banks, but the CUT has not managed to include this issue in its affiliated unions' agreements (see below). In the beginning of the 1990s, metalworkers' unions in São Paulo and the ABC region negotiated the pace of subcontracting and job re-engineering (Cardoso, 1995). But no union has succeeded in bargaining in favour of subcontracted metal workers, because of the *enquadramento* law, which defines a union's constituency at its very creation.

[170] The 2004 ENESTyC provisional data was kindly provided by the STPS technician Maricela Fragoso, to whom we are most grateful.

[171] Note that big firms were responsible for 42 per cent of the employment in manufacturing in 2004 (although ENESTyC data do not include the *maquilas*) while 45 per cent of the remaining jobs were in small or micro firms, among which the regulation of labour relations was virtually absent.

by strong economic growth, which made the redistributive measures acceptable to employers. As a consequence, the role of collective bargaining in regulating working conditions is substantially stronger than it was in the 1990s.

Differences must also be underlined concerning the impacts of collective bargaining on wages and income distribution. While the MW has ceased to function as a reference value for bargained wages in manufacturing in the three countries, it has done so for different reasons. In Mexico, the MW has been set at a very low level since the beginning of the 1990s (at around US$30), while tripartite agreements since 1996 (when the New Labour Culture was issued) assured manufacturing workers productivity gains, thus provoking an important increase in the MW and mean manufacturing wage distances. But this has had no important effect on the country's hourly compensation costs, which have also been stable at around 11 per cent of the US standard throughout the last 16 years. Wage bargaining in Mexico is clearly constrained by its subordinated role within the NAFTA region – and since only 7–17 per cent of the salaried workers are covered by collective agreements, the real impact of bargaining on the overall wage distribution is negligible.

In Brazil and Argentina, the MW lost its signalling character for the opposite reason: strong MW recovery policies are not being equalled by collective bargaining and wage distances are diminishing. But because bargaining coverage is much wider in these countries than it is in Mexico, bargained wages are important distributive mechanisms. In Argentina, this is very difficult to establish without ambiguity and approximations are likely to be mistaken. There are, however, good indications that the agreed salaries are getting closer to those that workers actually receive. For example, Trajtemberg (2007) compares the mean salary negotiated in 24 economic sectors (which comprise 50 per cent of all workers covered by collective conventions) with the salaries affectively declared to the pensions system. In 2001, wages set by conventions represented 60 per cent of the salaries declared to the pensions system; in 2006, the figure was 90 per cent. Along with the flexible measures included in recent agreements, this is another indicator of what may be a sustained process of re-regulation of working conditions in Argentina.[172]

In Brazil, too, collective bargaining is mostly wage bargaining and regulates actual wages in the formal economy. Labour and capital associations meet every year, primarily to set the piso salarial (the base professional salary) and, with it, a varying array of fringe benefits. All organized work categories have historically set their piso salarial above the MW and the stronger the union(s), the higher the piso salarial. The MW has even been a standard for informal salaried workers' salaries, even though informal employers are not constrained by the CLT. This used to be firmly established in the Brazilian work culture: most workers, whether or not the CLT regulated their work relations, would refuse to be paid below the minimum national level, which had been set at a very low level since the 1960s – an effect known as the "lighthouse effect" of the MW (Fajnzylber, 2001; Neri et al., 2001).[173]

But MW policies that slowly imposed real increases from 1999 onwards have importantly reduced that lighthouse effect. In 1999, the proportion of non-registered

[172] Many conventions were not negotiated anew in the 1980s and 1990s, but this does not mean that working conditions have not changed; rather, new labour regulations were established at the local or regional levels, and in many sectors, the old conventions simply no longer ruled work relations. In an economic and political context dominated by neoliberal policies, this "illegality" was disregarded and collective agreements at the firm level, which grew during the 1990s, have had little impact on the de facto deregulation of work conditions. This probably explains the presence of flexibility measures in the conventions analysed by Ambruso et al. (2008): it may be that many conventions are now regulating the flexible measures already introduced in previous years and not establishing new work conditions for the future – but it may equally be an indicator of their re-regulation.

[173] For example, in 1996, only 27 per cent of the informal salaried workers earned below that level (which means that 73 per cent earned at least the MW).

salaried workers earning below the MW was 33.6 per cent; in 2006, that figure had soared to 46.1 per cent.[174] The fact that fewer non-registered salaried workers are earning at least the MW explains why their mean difference from formal wage earners has decreased only slightly in manufacturing, and only slightly further in services and commerce, in which most workers earn the MW.[175] In other words, if the same proportion of the 1999 informal salaried workers (66.4 per cent) were still to receive more than the MW, the mean difference between informal and formal salaried workers would have been completely overridden. Thus, at the aggregate level, collective bargaining has helped to reduce inequality, but in an unexpected way: despite the increase in the number of unions that negotiated wage adjustments above inflation rates, the State-defined MW policy remained the most important wage (and distributive) policy in Brazil, as it is in Argentina.

Case studies

In understanding the complex connections between State institutions and the strategies, constraints and opportunities of labour and capital in the three countries, some select case studies can be helpful.

Bank workers in Brazil

Bank workers' unions are strong in Brazil, and while they may have lost power in the 1990s – as a result of technological restructuring that completely redefined day-to-day labour relations, including tasks, work organization and hierarchies, size of firms and ownership of capital – they still have a stake in the structure of organized labour in Brazil, having helped to democratize union practices and to create new standards for collective action. Most significantly, they have successfully created a confederation that bargains collectively at the national level, issuing collective agreements that bind both public and private bank workers.

Bank workers' unions were the second major force within the CUT in the 1980s and 1990s, and a central player in the federation's strategic and political action. In the mid-1980s, there were some 1.5 million finance workers in Brazil, but by the end of the following decade, the numbers had fallen to 500,000, with only 400,000 remaining in the mid-2000s. As in many other countries, neoliberal adjustment has strongly affected finance and bank workers. In just ten years, the clientele of finance trade unions was reduced by half, due largely to:

- the privatization or bankruptcy of public banks;
- the reduction in the number of bank branches all over the country, due to privatization, mergers, acquisitions and new technologies; and

[174] Figures computed directly from PNAD datasets.

[175] In 2002, the mean formal workers' hourly wage was 4.99 Brazilian real (R$), compared to R$3.27 for informal (unregistered) salaried workers; in 2006, the figures were R$5.03 and R$3.29, respectively. So, the gap was slightly reduced from 45 per cent to 41 per cent in favour of informal workers. In manufacturing, formal workers earned 24 per cent more than unregistered salaried workers in 2002; the gap was reduced to 22 per cent in 2006. This also happened in construction and in most service sectors. In commerce and maintenance, for example, non-registered workers were much better off than registered ones during the employment boom period of 2003–06: informal workers earned 17 per cent more than formal ones in 2002, and 23 per cent more in 2006 (figures calculated directly from the PNAD microdata). This is probably explained by the smaller proportion of unions that negotiated agreements above inflation in service sectors. For example, according to DIEESE (2007: 6), 95 per cent of manufacturing unions agreed wage increases above the inflation rate, while in services, the proportion was 81.1 per cent (85 per cent in commerce). In 2005, the difference was even higher: 83 per cent in manufacturing, 57.8 per cent in services and 70 per cent in commerce (see DIEESE, 2006: 9).

- the concentration and internationalization of the property of capital in this particular industry, which intensified intra-capitalist competition and pushed industrial restructuring further, mostly through information technologies and subcontracting.

The most important banks in Brazil were either federal or provincial public agencies, and the Bank of Brazil was (until November 2008) the biggest national financial institution. Bank of Brazil, along with banks such as the State Bank of São Paulo (*Banco do Estado de São Paulo*, or BANESPA), the State Bank of Rio de Janeiro (*Banco do Estado do Rio de Janeiro*, or BANERJ), and their counterparts in Minas Gerais, Rio Grande do Sul, Bahia and many others, were responsible for more than 60 per cent of all banking transactions before the privatization of province public banks. So, most of the banks' activities were treated as quasi-public services, and workers had working standards and labour regulations that resembled, in many dimensions, those of public servants, including job security and special social security provisions. These two characteristics explain part of the organizational capacity of bank workers' unions in the 1980s and also their national articulation.

Because the Brazilian union structure does not favour unions' horizontal coalitions, bank workers' unions created the National Confederation of Workers in Credit Companies (*Confederação Nacional dos Trabalhadores em Empresas de Crédito*, or CONTEC) in the 1970s, which slowly managed to coordinate the unification of private sector's collective bargaining dates throughout the country.[176] After the constitution of the CUT in 1983, the unification process was intensified. After a series of strikes that culminated in a national stoppage in 1985, coordinated by the CUT and demanding a national collective convention, a national agreement was signed with the employers' National Federation of Banks (*Federação Nacional dos Bancos*, or FENABAN) setting the labour standards of all private banks' employees. In parallel, national agreements were signed with the Bank of Brazil and other public, provincial banks, which had branches in other states.

After this important, innovative movement, the CUT created the National Bank Workers' Department (*Departamento Nacional dos Bancários*, or DNB), an unofficial confederation in opposition to the CONTEC.[177] The CUT would then win elections in bank workers' unions in areas originally controlled by the CONTEC, deepening the reform process among bank workers' unionism. Unions, federations and confederations joined efforts to strengthen joint strategies and collective action, and collective agreements converged to fairly similar labour standards in the entire country. In 1992, the CUT created its own confederation, the National Bank Workers' Confederation (*Confederação Nacional dos Bancários*, or CNB), with the aim of competing formally with the CONTEC for workers' official representation – something that the DNB could not do, because it had no official recognition and was rejected as a bargaining partner by employers' associations. The CUT conceded to "officialism" to assure collective bargaining rights in a union structure that had suffered minor changes in 1988 (not including the destruction of the vertical union structure).

But the centralization of collective bargaining cannot be solely attributed to workers' unions: the employers' FENABAN, created in 1966, has played an important role in the

[176] In Brazil, as mentioned, bargaining occurs within a time frame that was legally defined by the Ministry of Labour until the 1988 Constitution. The unification was, in itself, an act of insubordination, because the idea of a time frame controlled by the State was to impede the unification of the demands of different categories, or even those within the same category of workers, but in different territorial bases.

[177] The CONTEC was created in 1959 and reflected the intense process of bank workers' organization before the 1964 military coup. Dominated by the Communists from the start, its union and federation leaders were sacked by the militaries and substituted for *pelegos* (unionists controlled by the State and the employers). The CONTEC would not survive this process of erosion of its previous power and, when the CUT was created in 1983, the CONTEC was treated as an ancient, corporatist, *pelego* institution.

coordination of private employers' actions, supported by the national structure of banks, which have headquarters in a particular area (mostly São Paulo) and subsidiaries throughout the national territory. The territorial proximity of employers within the São Paulo financial district was a significant boon to the centralization of their strategic decisions, allowing employers to coordinate their opposition to trade union actions well before unions were able to create national representative associations. Workers centralized their actions largely in response to this coordination among employers.

After the mid-1980s, this centralization process was self-perpetuating: it was in the interest of both bankers' and workers' unions to coordinate collective bargaining, albeit for different reasons. Workers fostered centralization to strengthen their bargaining power against powerful employers; bank owners wanted centralized bargaining to standardize labour conditions and the administration of personnel – a drive that intensified during the 1990s, with the privatization of regional public banks.[178]

In 2006, the CUT finally transformed its CNB into the CONTRAF and asked the State to recognize this broader institution – and the Ministry of Labour did so rapidly, despite CONTEC's protests. Jurisdiction problems were resolved with difficulty: CONTEC was said to represent credit companies' workers only; CONTRAF was granted representation of bank and finance workers only.[179] In practice, CONTRAF – which claims to represent 90 per cent or more of Brazilian bank workers – and CONTEC represent the local unions and federations that join them, whether from the bank or financial sectors; further problems are to be resolved in labour courts. So far, both confederations have negotiated jointly, but political divisions are expected in the near future, when CUT and FS no longer align with the federal government.

Bank workers' unionism is a blatant case of organized labour's partial accommodation of the official union structure and clear proof of the seductive allure of the latter – but it is also proof of organized labour's capacity to resist that allure. While the 1988 Constitution has freed unions from State control, disputes between competing unions must be decided by a government institution: the Ministry of Labour (which granted CONTRAF recognition). The almost irresistible character of the official structure results from the maintenance of the "union tax" and the unicidade clause, which grants unions mandatory union fees and, in practice, defines which union may represent a particular group of workers in a given municipality. This forced the CUT to comply with the existing legislation if it wanted to sign collective contracts, as did the CONTEC. The constitution of the CONTRAF also granted it access to a share of the "union tax".

The legislation is ambiguous in the sense that, if the public authority so chooses, different unions or federations will compete for a particular constituency until that authority decides which has the right to represent what part. Two unions will not represent the same group of workers, but this group can be sliced as much as the political competition amongst union principals demands and as long as this competition is supported by the public authority in office. This may lead, for example, to the definition of a new category of workers – "finance workers" – who were represented by bank workers' unions and who may now be represented by a finance workers' union, or federation; legal ambiguity may also lead to a private banks workers' union, a credit card workers' union, and so on. The limit to this fragmentation is either the public authority, whose action is subject to political pressures from both within and outside government structures, or the

[178] For example, the administration of the late Paraná State Bank (BANESTADO), when acquired by HSBC, was transferred from Curitiba to São Paulo, thus de-territorializing the collective bargaining process. The employer was also de-territorialized, so that the bargaining process is now coordinated by human resources personnel in the name of stockholders from within and outside the country. This happened with almost all privatized banks that were acquired by foreign investors in the 1990s.

[179] Finance workers include credit and finance companies (non-bank-related, such as credit card, credit and even estate intermediation workers), while bank workers are those working within bank buildings.

labour movement itself. The bank workers' case shows that only the latter has the power to impose order on the legal chaos.

Although its net result has not been a friendlier bargaining scenario, coordination has helped to change the previous patterns of collective action. The 15-day strike of November 2008, coordinated by the CONTRAF, tested the ability of nationally organized collective action to enrol public and private bank workers – and it resulted in the closure of almost all banks branches (while maintaining essential services to minimize the costs to the general public). The population did not suffer major consequences and bank owners asserted that the movement had failed – but their concession of a 10 per cent increase in wages and other measures to improve work conditions proved the movement a huge success. Within a union structure that supports and stimulates union competition and fragmentation, the centralization of bank workers' collective action is a significant achievement.

Mining workers in Mexico

Changes at the political level have certainly made Mexican unionism more autonomous than before, at least at the national level – although political change does not always lead to better quality of representation. Because politics and collective bargaining are tightly knit in Mexico, however, political change always affects IR outcomes. For example, two important federal district unions – representing subway workers and public servants in Mexico City, and identified with the PRI – have confronted the PRD federal administration with action, including strikes; the Petroleum Workers' Union (*Sindicato de Trabajadores Petroleros de la Republica Mexicana*, or STPRM) – also identified with the PRI – has confronted the PAN national administration (Quiroz Trejo, 2005). While such confrontations obey a political, rather than unionist, rationale, they are a statement of union independence from the State.[180]

A good example of the increasing autonomy of this ongoing labour movement is the SNTMMSRM, one of the most important Mexican national unions, and a traditional supporter of the Labour Congress and the corporatist regime. Within the last decade, selected events have shed light on the role of the State in structuring Mexican labour relations and on the changing circumstances to which the democratization of organized labour is subject.

In the early 1990s, the SNTMMSRM was impacted by privatizations and productive reconversion, but the recovery of the minerals' international market gave it new strength: by 2003, the mining industry employed some 90,000 workers (compared to fewer than 50,000 in 1995), benefiting from the commodity prices boom of the new millennium.

In 2000, the union's president fell ill and a dispute over his replacement started, placing his son, Napoleón Gómez Urritía, in opposition to Elías Morales, a traditional mining leader who criticized Gómez for not being a mining worker and also for being too inexperienced within the trade union structure. That was the last year of the PRI administration and the STPS accepted Morales' arguments, refusing *tomar nota* to the new president. In 2001, with Carlos Abascal now in the STPS and the PAN in office in the federal Executive, the State finally recognized the appointment of Gómez. But in the subsequent years, tensions would accumulate that would eventually result in a major divide within the Mexican labour movement – the most important split since the creation of the UNT in 1997.

[180] In 1988–89, the PRI administration was easily able to intervene and displace the president (La Quina) of the STPRM and that (Carlos Jonguitud Barros) of the SNTE, a possibility that is much less likely today.

The first major tension was driven by economic factors: favourable prices in the minerals' international market fostered collective action demanding a larger share in the companies' profits and, in 2005, a strike in the Lázaro Cárdenas metallurgic plant was a success for workers. This helped to put pressure on the government's wage contention policies, influenced the other firms in the industry and questioned the position held by traditional unionism.

The second tension was political in nature. Gómez Urrutía opposed the reform of the LFT and did this within the Labour Congress itself – and in 2006, the SNTMMSRM joined the opposition coalition that disputed the presidency of the Labour Congress. In response to the accumulated tensions, the government decided to grant legal recognition to Elías Morales; Gómes Urritía was simply sacked from the union's presidency under charges of economic fraud. Two days later, in February 2006, an accident at the Pasta de Conchos mine (owned by the Grupo Mexico) resulted in the deaths of 65 mining workers. Mining working conditions were criticized, labour inspection was questioned, and the defence of union autonomy and the prosecution of those responsible for the tragedy were added to an increasingly conflictive trade union agenda.

A general strike was called for in March 2006. The last national mining strike in August 1944 had been an eloquent example of Mexican corporatism and of the central role played by the mining workers' unions. In 2006, the State attacked workers with its full arsenal: it accepted mass dismissals, imprisoned workers' leaders and pushed the SNTMMSRM further into opposition. Gómez Urrutía was forced to flee to Canada – a political refugee.

This forceful attack of trade union autonomy provoked a rearrangement within Mexican unionism, which eventually resulted in the creation of the National Front for Labour Unity and Autonomy (*Frente Nacional por la Unidad y la Autonomía Sindical*, or FNUAS), composed by the UNT, the FSM and other organizations critical of the Labour Congress, including the CROC. Altos Hornos de Mexico, a big metallurgic company, also supported Gómez Urrutía.

Meanwhile, SNTMMSRM's collective action increased. In February 2006, the union's 201 section (San Martin Mine, in Zacatecas, administered by the Grupo Mexico) went on strike, which was resolved in workers' favour in May. A one-week strike of silver miners in other provinces was also successful. In March, the union's 298 section stopped working at La Caridad mine, in Sonora, demanding the revision of the collective contract (again targeting Grupo Mexico). But in this case, the mine was shut down in July and all workers were fired, thus ending the conflict; when mining resumed months later, strikers were not hired back.

In April, Mittal Steel workers in Michoacán and the workers of the Siderúrgica Lázaro Cárdenas-Las Truchas (SICARTSA), both part of SNTMMSRM's section 271, went on strike. The Mittal Steel strike ended shortly afterwards, when employers recognized Gómez Urrutía as the union president – but the National Conciliation and Arbitration Court (*Junta Federal de Conciliacion y Arbitraje*, or JFCA) declared the SICARTSA strike illegal. The movement was violently repressed and two workers were killed. Nonetheless, in June, strikes would break out in Cananea, and Rosita, both in Sonora, at the northern Mexican border.

While both the administrative authorities and the Labour Congress supported Elías Morales, opposition unions and the SNTMMSRM's militants recognized Gómez Urrutía the legitimate union leader. In April 2007, a lower-level federal labour court recognized Gómez's legal position, thus cancelling the toma de nota in favour of Elías Morales. The STPS would immediately ratify the decision.

In July 2007, Cananea Mine workers, in the Sonora state, along with Taxco and Sombrerete mines' workers (in the states of Guerrero and Zacatecas, respectively), all administered by the Grupo Mexico, went on strike demanding better working and safety conditions. The strike was firstly declared "inexistent" by the JFCA; the State then intervened – only to U-turn and recognize the movement as legal. The mines were still closed by October 2008 and the Secretary of Labour announced that the one-year stoppage had resulted in a loss of 12 per cent in the national mineral production.[181]

Teachers in Argentina

While the public sector teachers' labour movement in Argentina has a long tradition, it was not institutionalized until the 1980s for a number of reasons:

- historically, teachers did not bargain collectively;
- the administration of obras sociales played no role in attracting union members;
- the participation of teachers within the education system has never had a corporative character, because teachers' representatives may or may not be union members; and
- the more ambitious efforts to structure solid teachers' associations sank in the turbulent waters of Argentine political instability.

Militancy among teachers consequently occurs in an exceptionally unregulated context.

The main national organization for teachers is the Confederation of Education Workers of the Argentina Republic (*Confederación de Trabajadores de la Educación de la República Argentina*, or CTERA), but at the national and even provincial levels, there is freedom of association (that is, plurality). The CTERA was responsible for a major national strike in 1988; in the 1990s, it headed the creation of the CTA and was responsible for many of its innovative practices. For example, in 1997, it promoted the *Carpa Blanca de la Dignidad Docente* (Teachers' Dignity White Tent), a tent installed in front of the National Congress in which militants demanded special funds for education that included the redefinition of teachers' salaries. Lasting almost three years, this protest put CTERA at the forefront of social resistance to Menemism and also of the country's labour movement (Gindin, 2009).

The CTERA leaders are very close to the Kirchner administration: by the end of the 1980s, Argentina had ratified ILO Convention No. 151, but not all teachers would bargain collectively, because many provinces and even the federal State would resist their doing so. The main public sector labour policy in the provinces was simply repressive: in most of them, a bonus for "perfect attendance" was established that thoroughly undermined any attempts at collective action.[182] While this did not totally inhibit teachers' organization in the 1990s, it certainly made mobilization more difficult. After 2002, the bonus started to be derogated; combined with a devaluation in wages, this led to a series of strikes that would

[181] The International Metalworkers' Federation (IMF) and the SNTMMSRM presented a complaint against the Mexican government to the ILO's CFA. In its recommendations, the Committee regrets "the acknowledgement or registration by the administrative authority of the interim executive committee imposed by the union's General Vigilance and Justice Council", and considers that "the labour authorities engaged in conduct that is incompatible with Article 3 of Convention No. 87, which establishes the right of workers to elect their representatives in full freedom". It continues: "Noting with concern the gravity of the other pending allegations in relation to which the Government has not replied in detail and which include arrest warrants, the freezing of union accounts, threats and acts of violence, including the death and injury of trade unionists, the Committee urges the Government to reply to these allegations without delay, to conduct a full and independent investigation and to keep it informed in this respect" (CFA, 2008).

[182] "Perfect attendance" means zero absenteeism, for which a teacher would receive an extra payment.

widely dominate the public debate and influence the public policymaking agenda.[183] Néstor Kirchner nationalized part of the issues central to teachers' interests, including the definition of a base salary guaranteed by the federal budget, the sanctioning of a new education funding law coordinated by the federal Executive and the sanctioning of a new education law that derogated the discredited 1993 federal provisions. In addition – and largely as a result of CTERA pressure – the 2005 education funding law included a national bipartite bargaining commission that was finally regulated in 2007.

The good relations between the CTERA and the Kirchner administration have not, however, diminished conflicts between teachers and the State. According to the Ministry of Labour, in 2007, almost 490,000 working days were lost in this sector alone, compared to 254,000 in the entire private sector, explained primarily by insufficient recovery in the real value of teachers' wages,[184] deep dissatisfaction with working conditions, the "low cost" of public teachers' strikes (due to employment security), the combative tradition of teachers' unionism and the relatively few controls that the CTERA can exert over local unions. It is the independence from central government of these competing, more liberal, trade unions that has helped to erode the influence of the Confederation's directive board within the teachers' movement.

Five national teachers' unions take part in collective bargaining with the federal government (which finances the system) and the provincial governments (the actual employers). "Parity collective" bargaining is now consolidated as an institutional mechanism at the provincial and national levels. While this is one of the most innovative practices in Argentine labour relations, it is not representative of the Argentine labour movement.[185] It is evidence, instead, that the category of public servants that is both the most numerous and the most conflictive is driving the sustained institutionalization of collective bargaining at State level.

[183] In March 2009, in an inaugural speech at the National Congress, President Cristina Kirchner would say: "You know that I believe that force measures are no good for the education and for the children; […] as political leaders […] we must think about which model of society do we want and what kind of life can we offer. For it is true that there are large wage disparities, and it is true that many provinces may not be able to pay what is demanded. But what does not seem reasonable to me, what does not seem just is that many leaders that say that they cannot pay more, on the other hand are benevolent in establishing what should be the contribution of those who have more, while commanding that the teachers should live with their minimum wages. This is the kind of society that does not make sense to me."

[184] The relation between per capita GDP and teachers' wages is lower today than it was in 1993 (Coordinación General de Estudios de Costos del Sistema Educativo, 2008).

[185] See Gindin (2008).

Conclusion

The IR systems of Argentina, Brazil and Mexico are legislated; those of Brazil and Mexico are also strongly constitutionalized. But while a good part of the three systems' rationale has survived the 1990s' neoliberal reforms, at least one of its core aspects has been eroded: job security (or its unevenly fulfilled promise) is no longer the main pillar of the overall political compromise that assured workers a place in the social and economic orders, and also a say in the political arena. Although strongly resisted in Brazil and partly in Argentina, flexible work contracts and relations are now part of the "natural" background from which collective bargaining departs.

The legislated character of the three systems reduces the scope of collective bargaining as mechanism for the regulation of the labour market, although in different ways. In Brazil and Mexico, workers' organization at plant level is either weak or entirely absent. In this context, the bargaining of working conditions is virtually impossible – explaining why most of the bargained measures in Brazil relate to working hours and flexible wages (issues that demand no specific knowledge of the organization of work at firm level), and why, in Mexico, the number of bargained flexible issues is negligible. In Argentina, stronger firm-level organization has assured the bargaining of flexibility, but in many respects, this has been *concession bargaining*: workers negotiate only from a very weak position.

The emerging picture of collective bargaining practices in the three countries is one of marked differences. Mexico is characterized by firm-level bargaining, minor bargaining coverage and reduced scope of the issues bargained. Wages are set in accordance with the broader federal economic policies, and politics and union partisan loyalties still play a central role. In Argentina, bargaining occurs at the industry and firm levels, but it is normally coordinated by the industry union even when agreed at the firm level; in Brazil, firm-level bargaining also prevails, carried out by the municipal union. In these two countries, the State is also the central player – but there is more room for autonomous organized labour than there is in Mexico, even though the administrative authority has historically curtailed bargaining and thus organized labour's ability to interfere in day-to-day work relations.

The 1990s were difficult for organized labour in the three countries. Labour market flexibilization meant the reduction of legal and conventional protection for workers in all economic sectors, including public service. Corporate unilateralism characterized the adoption of flexible measures in Mexico; in Brazil, only a few strong unions could impose obstacles or partially set the standards for change in the organization of work. But because the IR models in these countries are strongly legislated, most of the flexibility measures were legally instituted, leaving little room for union resistance or influence. While legislation on flexible working hours and flexible work contracts gave firms the right to adopt them, and in Argentina and Brazil, the law provides that such adoption must be collectively bargained, unions bargained only from a position weakened by the economic restructuring that generated high unemployment rates (especially in manufacturing).

In Mexico (a more export-oriented, open economy), flexibility is incorporated in labour relations as a necessity and unions in all industries have conceded in the flexibilization of the *scalafón* regimes. Here, the law has not changed, but work regimes have been flexibilized through the reduction of collective bargaining coverage, the growth of the informal sector and a decrease in employers' compliance with the labour law.[186] In

[186] See Bensusán (2006) and De La Garza (2006c).

Argentina and Brazil, flexibility is both accepted and resisted, and after 2003, the federal governments in the two countries added protection to flexible work regimes via tripartite decision-making. In Brazil, the Labour Court has also played an important role in reducing the pace and scope of flexibility: for example, by limiting subcontracting and other forms of work contract not regulated by the CLT.[187] In the public sector, the Court simply cancelled the 1990s' flexibilization of the RJU, giving parity to CLT and affected servants' contracts. But competitiveness (and bargained flexible work regimes) is incorporated into the agendas of Argentine and Brazilian organized labour (albeit less intensely than it is in Mexico), and in all three countries, labour markets are extremely responsive to economic shock, in both its numeric (the relocation of displaced workers) and salary (wage adjustments based on the business cycle) dimensions.

The economic restructuring plans of 1990s in Argentina and Mexico were strictly based on wage restraint. In the latter, the mean hourly compensation cost in manufacturing for the period 1990–2006 was only 11 per cent of that of the United States, with only a small standard deviation (1.8 percentage points); in Brazil, for the 1996–2006 period, the cost was 20 per cent that of the US, with standard deviation of 7.8 percentage points.[188] Mexican manufacturing is evidently more competitive than that of Brazil in terms of wages, due to wage restraint and State control over union bargaining power; in Argentina and Brazil, after 2003, aggressive MW regimes and employment policies fostered formal job creation, which also had a direct impact on organized labour's bargaining power. In the 1990s, then, it is clear that the State (in its many dimensions) remained the most important actor in the IR systems of the three countries: numeric, functional and wage flexibilities resulted largely from the tight control of organized labour (Mexico), repression of union activities (the three countries) and the cooptation of organized labour to the neoliberal agenda (Argentina and Mexico).

Analysing the Argentine case, Héctor Palomino (2008) proposes the idea of a "labour mechanism" linking wages and the total set of labour institutions, including unions' power. The author suggests that, in Argentina, this mechanism is particularly encompassing. The increase in formal employment strengthens (with only minor mediations) union power, the coverage of collective conventions and also the social security system, in which unions also participate as administrators of the *obras sociales* and other services. The "mechanism", then, has strong distributive effects – especially when the State's coordination role is exercised.

This mechanism holds for Brazil, too, although in a less encompassing way. Here, a new formal job also results in a new union member and in a series of revenues that feed the social security system, employers' training services and public investment in infrastructure by way of the FAT funds, which creates new jobs, and so on. Unions are not strengthened in the same way as they are in Argentina, because they do not manage *obras sociales* and other social services, but a union's budget is directly and positively affected by a new formal job. Most of all, in the two countries, formal new jobs ignite a range of labour and social rights that make workers visible to the State, and which grant them some socio-economic security.

[187] Organized labour has fought subcontracting via cooperatives and other flexible work contracts, and some unions (such as the São Paulo Bank Workers' Union) would eventually bargain their banishment. But the Labour Court is now judging most forms of subcontracting illegal in construction, manufacturing, some service sectors (communications and transport) and the public sector. In Brazil, the Labour Court has actually played *the* single most important role in the flexibilization process, favoured in the 1990s and made more difficult in recent years. See http://www.tst.gov.br

[188] The maximum value for Mexico was reached in 1994 (16 per cent of the US value), just before the currency crisis; the minimum (9 per cent) was reached in 1998. In Brazil, the maximum (32 per cent) occurred in 1996, and the minimum (12 per cent) in 2002 and 2003. Hourly compensation costs in the two countries have a direct correlation with the currency rate. (Data calculated from the ILO's Key Indicators of the Labour Market, or KLIM, which features no hourly compensation costs for Argentina.)

This last feature is also present in Mexico – but here, collective bargaining plays a minor role in the institution of new rights, and the "mechanism" is restricted to legal and political provisions that actually curtail, rather than promote, union power. It is true that the definition of MW levels by the State provokes the renegotiation of all collective agreements in Mexico as it does elsewhere, but a new formal job does not result in the immediate articulation of labour and social security institutions in favour of the newly hired worker. As a rule, the expansion of the formal labour market in new firms results in a dispute among different trade union factions for the control over collective bargaining and its consequences – a dispute that is supported by both State and employer. Union membership and the resulting collective contracts are superficial, and have no real redistributive effects: unions do not administer social security mechanisms. But, although illegal, a Mexican worker may be a union member without collecting union dues (De La Garza, 2006b).

In relation to social dialogue, it seems that tripartism should be the rule in a corporatist IR system. But the inconsistency of the efforts in the three countries shows that, while it is important, social dialogue has no direct impact either on the democratization of labour relations or on workers' well-being – especially when the social partners are not independent of the State. In Mexico, every single issue of the economic restructuring plans issued since the 1980s was discussed with representatives of labour and capital, but the substantive influence of organized labour on the policies was almost nil in most cases. The social pacts resulting from the many experimental concerted efforts would never set clear targets, other than in relation to inflation and the MW – that is, the restraint of labour demands in favour of stable currency, productivity and capital accumulation.

In Brazil and Argentina, the tight bonds that link the Lula and Kirchner administrations to the most important social and labour movements have helped to stabilize a variety of consultation mechanisms, but their institutionalization is either in its infancy (Argentina) or very weak (Brazil) – and any change in the political majorities or governing coalitions may lead to the dismantling of all dialogue efforts, as during Fernando H. Cardoso's government in Brazil. In Argentina, this seems less likely in the near future, because there is no clear alternative to Peronism (in one form or another) – but even here, the clear democratization of the IR system is not globally institutionalized and social consultation is strong only because the current administration values it as a crucial instrument of governance. While it is supported by economic growth and the pro-labour social policies that have strengthened unions, fostered collective bargaining, created jobs and increased wages in unprecedented ways, thus helping workers to comply with State-led dialogue efforts, the sustainability of dialogue is not clear.

It is apparent, however, that the institutionalization of social dialogue within a democratic IR arena is key to its success. In Mexico, social dialogue is strongly institutionalized, but workers are always worse off in the resulting agreements; in Argentina, it only adds to the legitimacy of the State's governance. It is agreed that the lack of union democracy in Mexico is an obstacle to high-quality collective bargaining. Exclusion clauses that impede internal disputes and the emergence of opposition parties legally guarantee this lack of democracy, while union leaders may stay in their positions forever, with little control from their constituencies and a lot of control from the State. Other IR and social dialogue institutions link these leaders tightly to the State, and their power is ultimately derived from outside the workplace – a phenomenon that, while clearest in sectors with little organization tradition, is widespread. The inadequacies of the present system are obvious: it guarantees workers' compliance with State policies and employers' management provisions – but workers themselves have no say within the global system and its operation.

Mexico is, however, moving forward into a liberal, competitive democracy and party competition is bound to influence the overall corporatist institutional framework – labour

movement included. As competition deepens, different union leaders are likely to emerge and, with them, new institutions fighting the rigid corporatist structure. That change will, however, be slow: institutions are generally inert, and change is dependent on internal and external factors beyond their control – particularly if the institutions control money, political and legal resources. Further, democracy demands that existing interests be taken into account – even if those interests are vested in a non-democratic robe. The labour movement is subject to a legal system that is still impervious to dissidence and suspicious of autonomous unionism. As a consequence, recent changes in the Mexican IR systems have been less intense than those seen in Argentina and Brazil, and the pace of change will be dictated by the willingness of the State to reform the LFT. But organized labour *is* more autonomous today than it was five years ago, as the divide within miners' unionism and the fragmentation of public servants' representation demonstrates. Increasing competition within traditional unionism for control over its constituencies in a context of political democratization will certainly push the limits of that traditionalism.

Argentina, meanwhile, has experienced a startling process of social, political and economical reconstruction since the 2001–02 crisis, based on, among other things, renovation and revitalization of the core of its IR system. While Menem had (very effectively) used control and co-option to assure organized labour's acceptance of his neoliberal policies, the new power coalition has included social and labour movements as partners with interests in their own rights. The State has combined organized labour, capital organizations and the new social movements in effective efforts to reduce poverty, inequality, unemployment, exclusion, and the external and internal fragilities of the structural State. The current administration, in focusing on employment and income distribution, has designed many of the relevant policies within tripartite mechanisms, explaining the democratization drive of the 2004 labour reform which derogated many of the instruments instituted in the 1990s to restrict and control unions' actions. While the consequences of the current economic crisis which has hit the Argentine economy as strongly as it has that of Mexico are presently unknown, and although there is little that unions (or even the State) can do when firms decide not to invest, the CGT has already issued a credible warning that it "will not accept, under any condition or circumstance, that the financial crisis results in an adjustment at the expenses of labour stability and of the wage earners' economy".[189] Organized labour is, then, a central player in the current Argentine IR and political systems, and the federal State is fostering collective bargaining as a redistributive mechanism – something that would have been unthinkable in the 1990s.

In Brazil, the picture is more ambiguous: as a consequence of the 2005 political crisis, the Workers' Party (*Partido dos Trabalhadores*, or PT) lost a few seats in Parliament, becoming only the third political force; the political capital of some of its most important Congress leaders – including the previous president of Congress, the party leader in Congress, government leaders and many others – was devalued. The PT was ousted from the centre of the new governing coalition – a position now occupied by the Brazilian Democratic Movement Party (*Partido do Movimento Democrático Brazileiro*, or PMDB), a centre, pragmatic party that was also important in the Cardoso administrations. The Labour Democratic Party (*Partido Democrático Trabalhista*, or PDT), which had insisted on Lula's impeachment in 2005, was included in the coalition and the PDT-allied FS was given the Ministry of Labour, thus ousting the CUT from this strategic administration position. The PT also lost chief positions in some State-owned companies, including banks (Caixa Econômica Federal and the Bank of Brazil), and those in the electricity (Furnas) and oil (many Petrobras subsidiaries) industries. All of these events changed the face of Lula's administration, leading it away from its early identity as an ally of social movements and organized labour.

[189] "Declaración del Comité Central Confederal de la Confederación General del Trabajo de la República Argentina", 14 Oct. 2008, available at http://www.cgtra.org.ar

The judicial system is now a protagonist in the Brazilian IR system. While the Labour Court no longer interferes in collective conflicts and bargaining (the rate of *dissidios* is residual), in the new millennium and as a result of the changes that brought Lula into office, the Labour and the Supreme Courts are interpreting the Constitution more rigidly, and much of the flexible legislation instituted in the 1990s is now being judged "unconstitutional". Employers and some political leaders are consequently pushing for reform of the Constitution and the labour law; organized labour, meanwhile, is pragmatically manipulating the legal system to assure workers' individual rights and its relationship with the political system, to strengthen centralized workers' representation. Because both FS and CUT are allies of federal government, this coalition has inhibited an agenda of liberal reforms.

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Annex 1. Tables and graphs

Table 1.
Proportion of the population under the poverty and indigence lines in Brazil, Argentina and Mexico – 1990-2006

Country	Year	% under poverty line	% under indigence line
Argentina	1990	…	…
	2002	45,4	20,9
	2006	21,0	7,2
	1990	41,2	16,7
Brazil	2003	35,7	11,4
	2006	29,9	6,7
	1989	42,1	13,1
Mexico	2002	32,2	6,9
	2006	26,8	4,4

Source: ECLAC, 2007.

Table 2.
Annual inflation rates in Argentina, Brazil and Mexico – 1987-2007

Year	Argentina	Brazil	Mexico
1988			114.2
1989			20.0
1990	2314.0		26.7
1991	171.7		22.7
1992	24.9		15.5
1993	10.6		9.8
1994	4.2	916.4	7.0
1995	3.4	22.4	35.0
1996	0.2	9.6	34.4
1997	0.5	5.2	20.6
1998	0.9	1.7	15.9
1999	-1.2	8.9	16.6
2000	-0.9	6.0	9.5
2001	-1.1	7.7	6.4
2002	25.9	12.5	5.0
2003	13.4	9.3	4.5
2004	4.4	7.6	4.7
2005	9.6	5.7	4.0
2006	10.9	3.1	3.6
2007	8.5	4.5	3.8

Sources: for Mexico and Argentina: 1987-1995 – Oxford Latin American Economic History database (at http://oxlad.qeh.ox.ac.uk); Panorama Laboral 2007 for (1996-2005). Mexico 2006-2007 – Banco de Mexico; Argentina 2006-2007, INDEC; Brazil 1993-2007 – Brazilian Central Bank (BACEN).

Table 3.
Employment by gender and economic sector in Argentina, Brazil and Mexico – 1990-2006

Country	Agriculture fishing, mines	Electricity, gas and water	Manufacturing	Construction	Commerce	Transport, storage, communications	Finance	Communitarian, social and personal services	Other
Argentina									
1996 total	1.0	0.9	16.4	7.6	20.3	7.8	9.2	36.3	0.5
Men	1.5	1.3	19.3	11.9	21.0	11.3	8.8	24.3	0.5
Women	0.2	0.4	11.4	0.5	19.2	1.9	9.8	56.0	0.6
2000 total	0.8	0.6	13.9	7.7	20.9	8.1	9.6	37.9	0.5
Men	1.2	0.8	17.1	12.5	20.8	11.8	10.3	25.0	0.5
Women	0.3	0.2	9.0	0.6	21.0	2.7	8.7	57.0	0.5
2006 total	1.2	0.4	14.0	8.8	23.9	6.4	10.0	35.0	0.2
Men	1.8	0.7	17.1	14.8	25.5	9.6	10.8	19.5	0.2
Women	0.5	0.1	9.9	0.7	21.7	2.0	8.8	56.0	0.3
Brazil									
1990 total	6.5	1.0	18.1	7.2	20.4	4.8	3.1	38.5	0.3
Men	9.2	1.3	21.3	11.3	20.3	7.2	3.2	25.7	0.5
Women	2.2	0.4	13.0	0.5	20.4	1.1	2.9	59.3	0.1
1995 total	9.6	1.1	14.8	7.3	20.8	4.6	2.0	39.5	0.3
Men	11.6	1.4	18.1	11.9	20.8	7.0	2.1	26.7	0.5
Women	6.5	0.6	10.0	0.5	20.9	1.0	1.9	58.6	0.1
2001 total	7.7	0.9	14.1	7.5	21.5	4.9	1.7	41.4	0.3
Men	9.8	1.3	17.0	12.5	20.9	7.7	1.6	28.7	0.5
Women	4.7	0.4	10.1	0.5	22.2	1.1	1.8	59.2	0.1
2006 total	7.5	0.5	15.7	7.4	25.0	5.3	3.4	34.9	0.3
Men	9.7	0.7	17.4	12.7	26.2	8.1	3.9	20.8	0.4
Women	4.6	0.2	13.4	0.5	23.6	1.6	2.8	53.1	0.1
Mexico									
1990 total	1.5	0.6	24.1	5.0	25.5	5.5	5.8	31.9	0.1
Men	2.0	0.8	26.3	7.1	23.3	7.3	5.7	27.3	0.1
Women	0.5	0.3	19.8	0.7	29.9	1.9	6.1	40.8	0.0
1995 total	1.5	0.8	19.8	5.0	27.8	6.1	2.1	36.7	0.1
Men	2.2	1.0	21.7	7.5	25.0	8.4	2.1	31.9	0.2
Women	0.4	0.4	16.4	0.6	32.8	1.9	2.2	45.1	0.1
2000 total	1.3	0.7	23.0	5.7	26.2	6.3	1.6	35.2	0.0
Men	1.8	0.9	24.4	8.5	22.9	8.9	1.4	31.1	0.1
Women	0.4	0.3	20.7	0.7	32.0	1.8	1.9	42.3	0.0
2006 total	1.1	0.5	17.9	7.6	29.0	6.8	2.2	33.8	1.0
Men	1.5	0.7	19.4	12.1	25.0	9.7	2.2	28.1	1.1
Women	0.4	0.3	15.6	0.9	35.0	2.4	2.3	42.3	0.9

Source: Panorama Laboral 2007, ILO.

Table 4.
Formality rate measured as the proportion of the occupied population contributing to social security in Brazil, Argentina and Mexico – 1990-2006

Country/ year	Total	Salaried				Not salaried			
		Total	Public	Private		Total	Employers	Independent	Domestic service
				Firms of 5 employees or less	Firms of 6 employees or more				
Brazil									
1990 (a)		74,0	86,1 (c)	45,8					24,9
1995	57,3	73,7	85,9	37,1	84,0	20,7	12,3	29,2	26,6
2001	57,9	74,0	88,4	39,0	82,9	19,1	11,5	27,1	35,4
2006	60,9	76,3	89,6	42,5	83,7	20,3	12,7	28,6	37,1
Mexico									
1990 (a)		58,5	80,7 (c)	15,3	72,9				4,2
1995	35,5	53,1	76,9	7,7	59,1	0,2	0,3	0,0	1,2
2000	44,9	63,4	81,3	11,1	73,2	0,2	0,3	0,1	2,1
2005	42,4	61,2	84,2	13,8	69,4	1,0	0,2	1,7	1,9
Argentina									
1990 (d)		61,9		38,1					7,8
2000 (b)	44,5	55,8		10,3					0,8
2006	45,4	66,2	83,8	28,3	74,2	...	...	...	10,6

Source: OIT, Panorama Laboral 2007, except (a) Panorama Laboral 2005e; (b) Panorama Laboral 2006; (c) includes public and private formal employment; (d) Panorama Laboral 2004.

Data on pensions for Argentina not available for the 1990s.

Table 5.
Distribution of income in Argentina, Brazil and Mexico – 1990-2006

Country	Year	Participation in the distribution of income		
		40% Poorer (A)	10% Richer (B)	(B)/(A)
Argentina	1990 (a)	14,9	34,8	2,34
	2002	14,3	40,7	2,84
	2004	16,3	36,0	2,21
	2005	16,5	35,4	2,15
	2006	16,9	35,0	2,08
Brazil	1990	10,3	41,8	4,08
	2003	11,4	44,1	3,87
	2004	11,9	43,3	3,65
	2005	12,0	43,9	3,66
	2006	12,4	43,4	3,50
Mexico	1989	16,3	36,9	2,27
	2002	17,9	31,2	1,74
	2004	17,5	33,0	1,88
	2005	17,5	34,5	1,97
	2006	18,5	31,3	1,69

Source: CEPAL (2008).
(a) Great Buenos Aires

Table 6.
Foreign direct investment by economic sector in Argentina, Brazil and Mexico – 1992-2002

Country/ sector	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Argentina											
Primary	27,7	9,7	14,3	10,3	24,9	1,9	18,2	74,4	26,3	41,5	158,1
Secondary	14,3	30,7	49,5	39,0	39,9	36,1	15,7	8,1	14,3	2,3	76,9
Tertiary	54,8	55,8	23,9	45,9	30,2	53,4	50,0	13,1	45,6	58,2	-133,7
Not specified	3,2	3,8	12,4	4,8	5,0	8,6	16,0	4,3	13,9	-1,9	-1,2
Total in US$ thousands	4.431	2.793	3.635	5.610	6.948	9.160	7.291	23.988	11.657	3.214	775
Brazil											
Primary					1,2	2,6	0,5	1,4	1,9	7,1	3,4
Secondary					18,0	11,4	10,5	22,4	15,3	33,3	40,2
Tertiary					60,3	71,7	77,3	64,5	72,4	59,6	56,4
Not specified					20,5	14,4	11,7	11,7	10,4		
Total in US$ thousands					11.200	19.650	31.913	28.576	32.779	22.457	16.566
Mexico			0,7	0,9	1,2	1,0	0,6	1,6	1,7	0,1	1,0
Primary			41,1	50,3	47,3	51,4	41,9	68,1	57,3	18,9	42,2
Secondary			28,9	35,1	29,0	33,2	24,3	30,3	41,0	80,9	56,8
Tertiary			29,3	13,7	22,5	14,4	33,2				
Not specified											
Total in US$ thousands			15.045	9.646	9.948	14.167	12.200	13.007	15.847	26.109	13.968

Source: UNCTAD

Table 7.
Union density by economic sector and gender, Mexico – 2006

Economic sector	Men		Women	
	Density rate	Total employment	Density rate	Total employment
Agriculture and fishing	0,7	13,8	2,1	2,8
Mining	49,7	1,0	48,3	0,3
Electricity, water and gas	55,8	1,0	46,5	0,5
Construction	2,2	17,0	6,4	0,9
Manufacturing	18,5	19,0	14,7	17,5
Wholesale trade	10,2	3,6	1,1	2,2
Retail trade	3,6	8,6	2,0	13,7
Transport and mail	15,1	6,3	19,3	1,1
Information and mass media	27,4	0,9	39,2	1,0
Finance services	5,5	0,9	13,9	1,7
Real estate market services	1,2	0,6	3,8	0,6
Professional, scientific and technical services	4,0	1,4	2,4	2,0
Support services	6,0	2,4	10,7	2,5
Education	72,0	5,1	61,3	13,7
Health and social assistance	55,8	1,6	42,4	7,5
Culture and sports services	12,4	0,9	5,7	0,6
Lodging and food services	7,3	4,2	4,5	8,6
Other services (except government activities)	3,0	4,9	1,3	16,3
Government activities	22,8	6,8	38,5	6,3
N	2032	14669	1593	8294
Total density rate	13,9		19,2	

Source: INEGHI 2006, computed from microdata.

Table 8.
Union density in firms of 10 employees of more in Argentina by economic sector – 2006

Economic sector	Union density
Manufacturing	48,8
Construction	48,2
Commerce / restaurants and hotels	45,2
Transports and communications	48,3
Finance services and services to firms	28,5
Social and community services	26,5
Total	39,7

Source: Trajtemberg, Senén González y Medwid (2008), based on EIL.

Table 9.
Union density in private formal sector firms of 10 employees or more by economic sector and gender, Argentina – 2005

Economic sector	Men	Women
Manufacturing	50%	30%
Construction	36%	33%
Commerce, restaurants, hotels	49%	42%
Transport, communications	53%	25%
Finance services and services to firms	28%	18%
Education	17%	10%
Health	45%	40%
Total	43.4%	27.3%

Source: ETE (with thanks to E. Azpiazu).

Table 10.
Union density of the adult salaried occupied population by kind of job, Brazil – 2002 and 2006

Kind of job	2002	2006
Registered salaried workers	27,1%	28,2%
Public servants	39,2%	41,6%
Non-registered salaried workers	6,3%	7,1%
Registered domestic workers	1,9%	1,8%
Non-registered domestic workers	1,2%	2,2%
Total	19,4%	21,0%
Formal sector	29.2%	30.5%

Source: PNAD microdata

Table 11.
Union density of the adult salaried occupied population in the formal sector, by economic sector and gender, Brazil – 2006

Economic sector	Women	Men
Agriculture	25,3%	25,3%
Non-manufacturing industries	46,1%	44,8%
Manufacturing	29,5%	34,5%
Construction	26,6%	21,1%
Commerce and maintenance	21,8%	21,0%
Food and hotels	19,9%	21,5%
Transports and communications	35,4%	38,0%
Public administration	34,5%	33,9%
Education, health and community social services	36,8%	37,7%
Domestic services	24,2%	29,2%
Other social, collective and personal services	26,9%	32,8%
Total	30,2%	30,6%

Source: PNAD microdata.

Table 12.
Issues negotiated in collective bargaining in manufacturing,
Mexico – 1992-2001

Categories	Big firms		Medium firms		Small firms		Micro firms	
	1992	2001	1992	2001	1992	2001	1992	2001
Task assignment	75,30	71,51	73,90	61,33	60,10	31,88	7,90	2,14
Skilling	-	62,64	-	46,75	-	20,29	-	1,02
Hiring of eventual work	66,80	54,93	58,60	38,81	40,40	15,00	4,50	0,60
Promotion	73,50	51,36	66,70	36,07	50,00	15,26	5,30	0,75
Hiring	60,50	40,29	53,50	26,55	46,00	13,04	5,10	0,63
Productivity and quality	58,00	35,10	51,30	23,36	44,40	10,69	12,90	0,55
Horizontal mobility	46,10	32,58	39,70	24,13	27,70	9,33	3,10	0,56
Dismissals	41,30	30,06	34,00	19,67	26,00	10,87	4,00	0,47
Changes in the organization of work	42,00	25,08	36,60	15,17	29,90	6,56	5,20	0,39
Creation of confidence jobs	33,60	22,51	28,30	13,49	24,90	5,43	2,40	0,42
Use of subcontracted personnel	23,50	18,78	15,00	11,80	12,60	4,43	1,20	0,17
Introduction of new technologies	33,60	18,42	25,30	12,12	22,10	4,88	4,20	0,22
Other	–	2,47	–	1,76	–	0,51	–	0,02
None	–	14,95	–	28,06	–	60,75	–	97,43

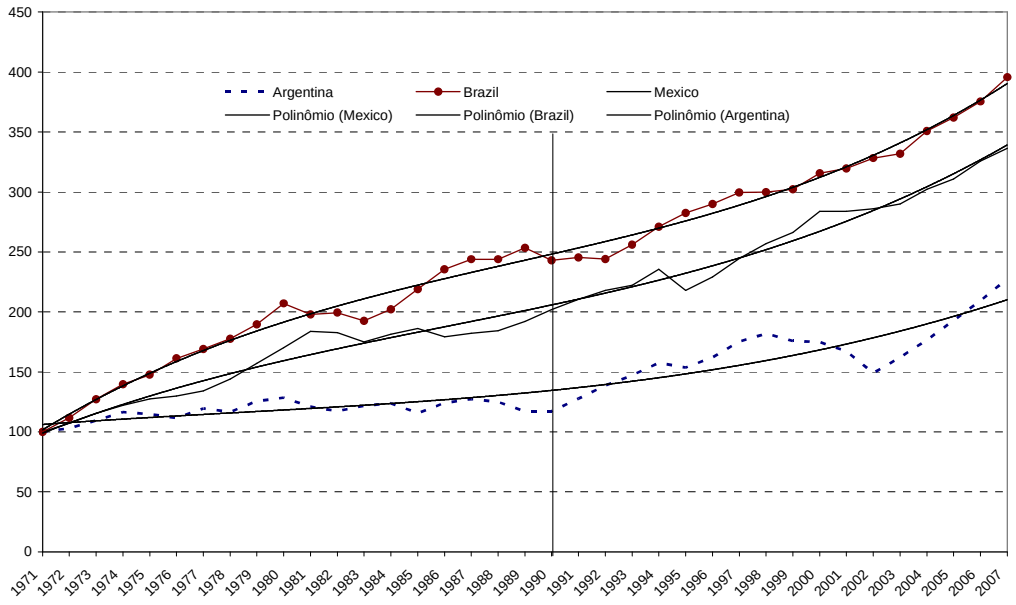
Note: Big firms: 251+ workers ; medium: 101 –250 employees; small: 16–100; micro: 1–15 workers.
Source: ENESTyC.

Table 13.
Wage levels: collective bargaining results, and number of agreements
in the DIEESE sample, Brazil – 1996-2007

Year	Above INPC		Equal to INPC		Below INPC		Total
	N	%	N	%	N	%	N
1996	120	51,9	9	3,9	102	44,2	231
1997	184	39,1	73	15,5	213	45,3	470
1998	141	43,5	64	19,8	119	36,7	324
1999	111	35,1	46	14,6	159	50,3	316
2000	190	51,5	56	15,2	123	33,3	369
2001	214	43,2	97	19,6	184	37,2	495
2002	124	25,8	133	27,7	223	46,5	480
2003	103	18,8	126	23,0	319	58,2	548
2004	361	54,9	172	26,1	125	19,0	658
2005	459	71,7	104	16,3	77	12,0	640
2006	565	86,3	70	10,7	20	3,1	655
2007	627	87,7	59	8,3	29	4,0	715

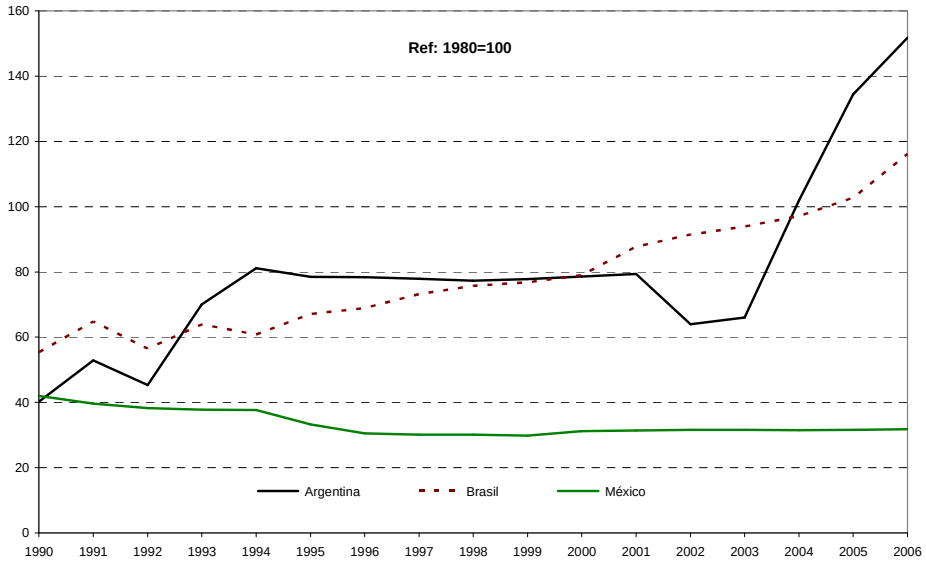
Source: DIEESE, 2007.

Graph 1.
GDP growth in Argentina, Brazil and Mexico – 1971-2007



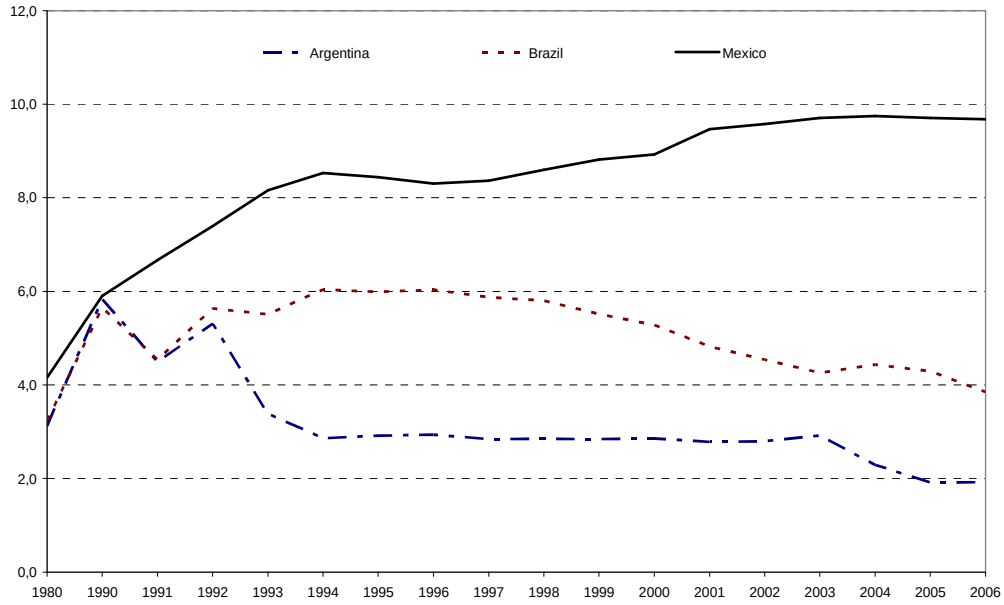
Sources: Oxford Latin American Economic History Database (at http://oxlad.qeh.ox.ac.uk) for 1971-1995; Panorama Laboral 2007 for Argentina and Mexico (1996-2005). Mexico 2006-2007 - Banco de México; Argentina 2006-2007, INDEC; Brazil 2006-2007, IPEADATA.

Graph 2.
Real minimum wages in Argentina, Brazil and Mexico – 1990-2006



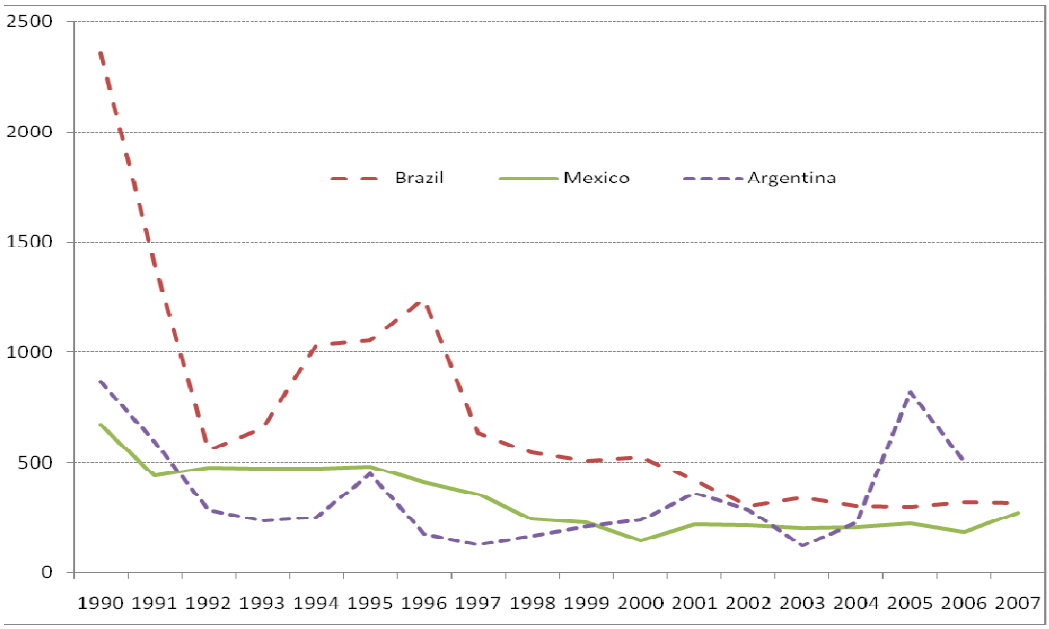
Source: Adapted from OIT, Panorama Laboral 2000 and 2007.

Graph 3.
Real wages in manufacturing as multiples of the real minimum wage in Argentina, Brazil and Mexico – 1980-2006



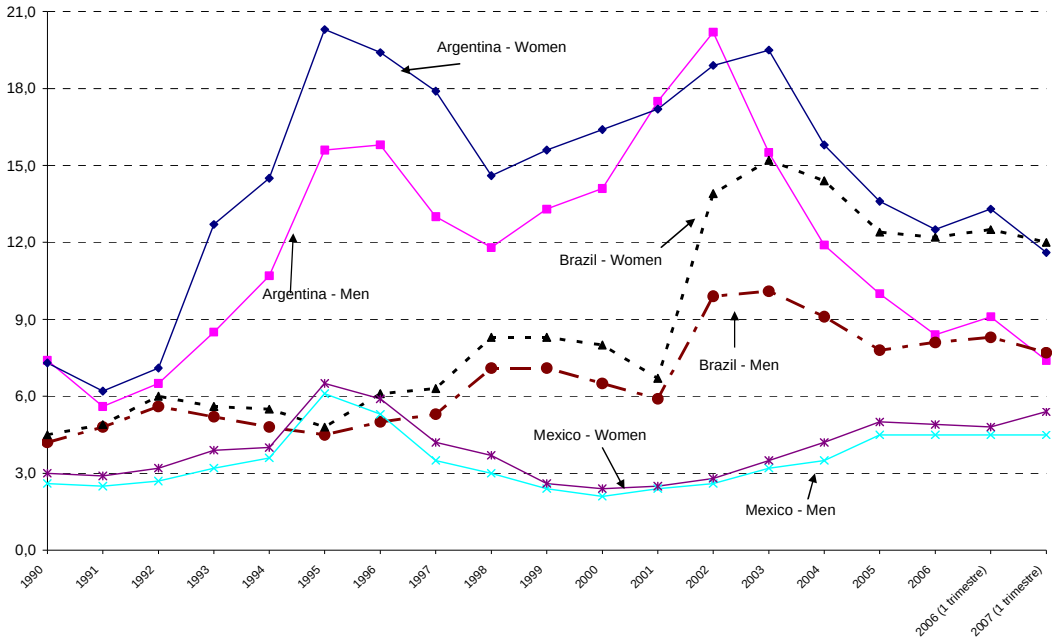
Source: Panorama Laboral 2000 and 2007 for the evolution; the ILO's LABOURSTA for the nominal values, deflated by the mean 2006 inflation in the three countries; Carlos Salas for the MW nominal value for Mexico.

Graph 4.
Number of strikes in Argentina, Brazil and Mexico – 1990-2007



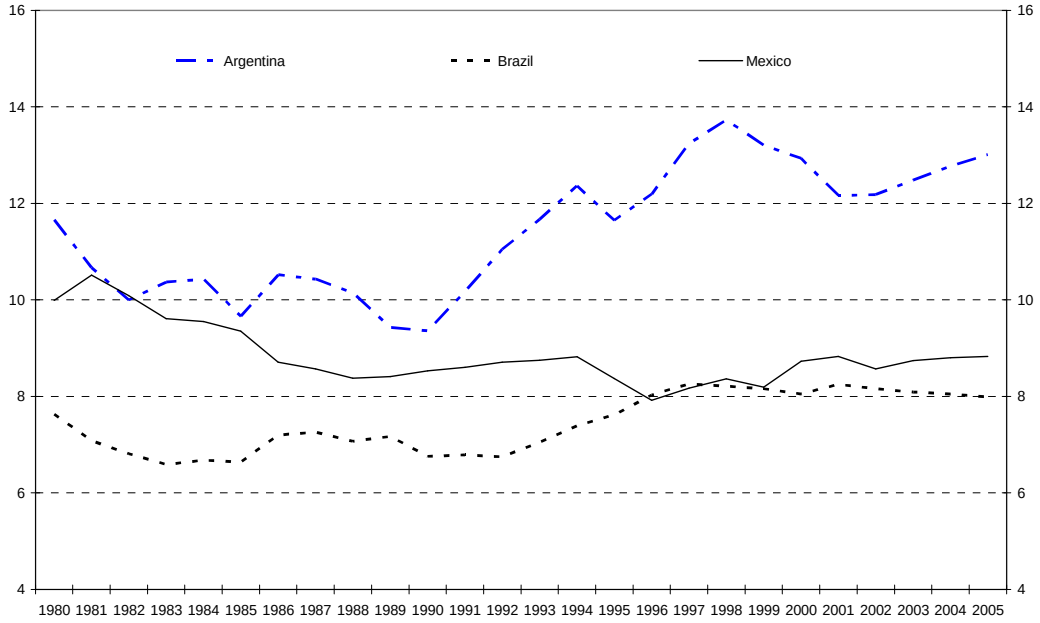
Sources: Mexico: Local jurisdiction strikes (INEGI, 2008).
Argentina: Centro de Estudios Nueva Mayoría.
Brazil: DIEESE.

Graph 5.
Unemployment rates of men and women in Argentina, Brazil and Mexico – 1990-2007



Source: adapted from OIT, Panorama Laboral 2000 and 2007. Methodology changed in Argentina and Brazil in 2002, and in Mexico in 2005. Data not strictly comparable.

Graph 6.
Productivity (GDP per hour worked, US$ PPP of 1990)
in Argentina, Brazil and Mexico – 1980-2005



Source: KILM/OIT.

Annex 2. List of persons interviewed

Argentina

Marta Novik	Subsecretaria de Programación Técnica y Estudios Laborales (SSPTyEL), Ministerio de Trabajo, Empleo y Seguridad Social (MTEySS)
Héctor Palomino	Director de Estudios de Relaciones de Trabajo de la Subsecretaría de Programación Técnica y Estudios Laborales (SSPTyEL), Ministerio de Trabajo, Empleo y Seguridad Social (MTEySS)
Luciano Carenzo	Delegado Gremial Unión de Trabajadores Hotelereros y Gastronómicos de la República Argentina (UTHGRA) – Seccional Buenos Aires
Carlos Ghioldi	Comisión Directiva Asociación de Empleados de Comercio (AEC) – Rosario

Mexico

Graciela Bensusan	Universidad Autónoma Metropolitana (UAM)
Carlos Salas	Colegio de Tlaxcala
Benjamin Davis	Centro de Solidaridad AFL-CIO/Mexico
Marco Tulio Esquinca	Consultor/Secretaría de Trabajos y Previsión Social (STPS)
Arturo Ventura	Secretaría de Trabajos y Previsión Social (STPS)

Brazil

Lucia Reis	Member of the CUT Executive Board
Marco Aurelio Santana	Universidade Federal do Rio de Janeiro
José Celso Cardoso, Jr.	Instituto de Pesquisa Econômica Aplicada (IPEA)

Annex 3. Employers' and workers' central organizations

Main Mexican employers' associations

Institution	Affiliation	Features
Confederación de Cámaras Nacionales de Comercio, Servicio y Turismo (COCANACO-SERVITUR)	Groups 58 chambers in 28 federal units in the tourism, commerce and services sectors.	Affiliation to the chambers used to be mandatory. Successive legal reforms flexibilized this provision.
Confederación de Cámaras Industriales (CONCAMIN)	Groups 47 national chambers and 18 regional chambers, plus 42 employers' associations in manufacturing.	
Confederación Patronal de la República Mexicana (COPARMEX)	Organizes 36,000 companies in employers' centres, which are grouped in nine regional federations. Includes all economic sectors.	Affiliation to COPARMEX is voluntary. Was created by the LFT as an employers' union and takes part in different tripartite bodies.
Consejo Coordinador Empresarial (CEE)	A peak association grouping seven organizations (including COPARMEX, CONCAMIN and COCANACO-SERVITUR), plus five permanent invited members.	A peak organization parallel to the official structure, with an important say in the political arena.

Employers' associations that take part in the National Council of Employment, Productivity and the Vital and Moving Minimum Wage in Argentina

Institution	Affiliation	Features
Unión Industrial Argentina (UIA)	Represents 35 industry-level chambers, most of which are national; and 23 provincial manufacturing chambers.	Created in 1887 and is the most important third-grade employers' organization in manufacturing.
Unión Argentina de Entidades de Servicios	Represents more than 20 industry-level chambers in the service sector, most of them national.	Third-grade organization created in 1987, affiliates service-sector entities.
Confederación Argentina de la Mediana Empresa	Represents more than 950 chambers and 27 federations in the entire country.	Created in 1956. It is also a third-grade institution, but takes part in collective bargaining in some service industries.
Central de Entidades Empresarias Nacionales	Represents 22 employers' chambers.	Third grade organization created in 2004, and represents service and manufacturing chambers.
Sociedad Rural Argentina	Created in 1866 and is the traditional organization of the major agriculture (and livestock) producers.	Rural organization
Federación Agraria Argentina	Created in 1912, represents small and medium producers.	Rural organization
Confederaciones Rurales Argentinas	Founded in 1943, represents more than 300 rural associations and 13 federations and confederations throughout the country.	Rural organization
Confederación Intercooperativa Agropecuaria (CONINAGRO)	Created in 1956, affiliates 10 cooperatives associations in agriculture.	Rural organization
Asociación Bancos de la Argentina (ABA)	Created in 1999 as a result of fusion of two original associations. 16 banks are active members and 19 others are 'adherents.	Industry-level chamber
Cámara Argentina de la Construcción (CAMARCO)	Founded in 1936, organizes hundreds of construction companies.	Industry-level chamber
Cámara Argentina de Comercio (CAC)	Created in 1924, represents the big commercial companies.	Industry-level chamber

Source: Association web sites.

Main Brazilian employers' associations

Associations	Features
Federação Brazileira dos Bancos – FEBRABAN (or FENABAN) (banks)	Created in 1967. Affiliates 120 of the 159 existing banks. Negotiates national agreements with bank workers' unions and is a strong lobbying instrument for banks within State agencies. But in the 2004 elections for its directing board only seven banks voted.
Confederação Nacional da Indústria – CNI (manufacturing)	Created in 1938. Coordinates manufacturing's national social services, training services and managerial development (SESI, SENAI and IEL), but do not bargain with manufacturing workers' unions. Affiliates 27 provincial manufacturing federations and is also a lobbying mechanism.
Confederação Nacional dos Transportes – CNT (transport)	Created in 1954, represents 29 affiliated federations, two national unions and 16 national (voluntary) associations. It sponsors regular survey research on government's performance and evaluation of politicians and the National Congress.
Federação das indústrias do Estado de São Paulo – FIESP (manufacturing)	Created in the 1940s, affiliates 132 employers unions representing 150,000 companies in manufacturing in the São Paulo state, which produce some 35 per cent of the country's GDP. It is the most important employers' association in Brazil, very effective in its lobbying activity. It also bargains collectively for many companies and coordinates collective bargaining of the entire industry via consulting mechanisms, efficient information systems and experts, research groups and training of bargaining personnel.
Federação das Indústrias do Estado do Rio de Janeiro – FIRJAN (manufacturing)	Created in the 1930'. Represents 105 employers' unions and some 9,000 companies in manufacturing. It is constituted by 'Entrepreneurial Councils (legislative issues, energy, environment, social and labour policies, technology, infra-structure, international relations and others), which are consulting bodies that also propose policies and voice the Federation's political ideas. It also administers social services such as child and adult education. Its action is more confined to the State of Rio de Janeiro, while the FIESP speaks for the entire industry.

Main Argentine national workers' federations and unions

Organization	Central
Federación Argentina de Empleados de Comercio y Servicios (trades and services)	CGT
Unión de Trabajadores Hotelereros y Gastronómicos de la República Argentina (hotels and restaurants)	CGT
Unión Tranviarios Automotor (heavy transport)	CGT
Federación de Sindicatos de Trabajadores de Industrias Químicas y Petroquímicas de la República Argentina (chemicals and petrochemicals)	CGT
Federación de Trabajadores de la Industria de la Alimentación (food and catering)	CGT
Sindicato de Mecánicos y Afines del Transporte Automotor (maintenance of automobiles)	CGT
Unión Argentina de Trabajadores Rurales y Estibadores (rural and ports workers)	CGT
Federación de Asociaciones de Trabajadores de la Sanidad Argentina (health)	CGT
Federación Nacional de Trabajadores Camioneros (truck drivers)	CGT
Confederación de Obreros y Empleados Municipales de Argentina (municipal public servants)	CGT
Unión Obrera de la Construcción de la República Argentina (construction workers)	CGT
Asociación Obrera Textil (textiles)	CGT
Unión Ferroviaria (train conductors)	CGT
Federación Gremial del Personal de la Industria de la Carne y sus Derivados (meat)	CGT
Federación de Sindicatos de Trabajadores de la Carne y Afines de la República Argentina (meet and congeners)	*
Unión de Obreros y Empleados Plásticos (plastics)	CGT
Federación Argentina Sindical del Petróleo y Gas Privados (private sector oil and gas)	CGT
Federación de Obreros, Especialistas y Empleados de los Servicios e Industria de las Telecomunicaciones de la República Argentina (telecommunications)	CGT
Federación Argentina de las Telecomunicaciones (idem)	**
Sindicato Argentino de Docentes Particulares (private sector teachers)	CGT
Asociación Argentina de Aeronavegantes (aviation)	CGT
Sindicato Argentino de la Televisión (television)	CGT
Unión Obrera Metalúrgica (metalworkers)	CGT
Asociación Bancaria (bank workers)	CGT
Federación Argentina de Trabajadores de Edificios de Renta y Horizontal	CGT
Unión del Personal Civil de la Nación (national civil servants)	CGT
Confederación de Trabajadores de la Educación de la República Argentina (education)	CTA
Asociación de Trabajadores del Estado (public servants)	CTA
Sindicato Unico de Trabajadores del Neumático Argentino (tire industry)	CTA
Asociación del Personal Aeronáutico (aviation)	CTA
Federación Judicial Argentina (judicial system)	CTA
Confederación de Educadores Argentinos (education)	–

* Created in 2003, gained 'personería gremial' in 2005.
** Created in 2005, gained 'personería gremial' in 2008.

Main Brazilian trade unions and affiliation in central federation

Unions and federations	Central
Sindicato dos Metalúrgicos do ABC (metalworkers, multi-municipal). Created in 1933, represents 150,000 workers.	CUT
Sindicato dos Metalúrgicos de São Paulo (metalworkers, two municipalities). Created in 1932, represents 200,000 workers.	Força Sindical
Sindicato dos Químicos de São Paulo (chemical workers). Created in 1933, represents some 60,000 workers.	CUT
Sindicato dos Bancários de São Paulo (bank workers). Created in 1923, represents 130,000 workers.	CUT
Sindicato dos Professores do Ensino Oficial do Estado de São Paulo – APEOESP (secondary level, public sector teachers). Created in 1945, represents 300,000 teachers.	CUT
Federação dos Trabalhadores nas Indústrias de Alimentação do Estado de São Paulo (food and catering), represents 300,000 workers.	Força Sindical
Sindicato dos Metalúrgicos de Osasco e Região (metal workers, multimunicipal). Created in 1963, represents 65,000 workers.	Força Sindical
Sindicato dos Trabalhadores em Empresas de Telecomunicações do Estado de São Paulo – SINTETEL-SP (telecommunications). Recognized in 1942, represents 150,000 workers in the State of São Paulo.	Força Sindical

CUT federated structure (selected institutions)

Confederations	Features
Confederação Nacional do Ramo Químico – CNQ-CUT (chemical workers)	A national organization. Represents 58 unions, two province federations and one national federation – 280,000 workers.
Confederação Nacional dos Metalúrgicos da CUT – CNM-CUT (metalworkers)	Claims to represent one million workers, by way of seven provincial federations and 96 unions affiliated to the latter. Founded in 1992. A national organization.
Confedração Nacional dos Trabalhadores do Ramo Financeiro – CONTRAF-CUT (finance workers)	A national organization created in 2006 representing 90 unions and eight provincial federations, representing 400,000 workers.
Federação Única dos Petroleiros – FUP-CUT (oil workers)	A national organization. Represents 13 unions and almost 150,000 workers. Created in 1993.
Federação Nacional dos Urbanitários – FNU-CUT (electricity, gas, water)	Created in 1952, affiliates 51 unions in the country and represents some 200,000 workers.
Federação dos Metalúrgicos da CUT (metal workers)	Founded in 1992, represents 13 unions of different municipalities in the São Paulo State, representing 270,000 workers.
Confederação Nacional dos Trabalhadores do Comércio e Serviços – CONTRACS-CUT (commerce and services)	Created in 1990, affiliates 230 unions in almost all Brazilian States. Claims to represent more than 1 million workers.
Confederação Nacional dos Trabalhadores em Transportes – CNTT-CUT (aviation, trains, metro, sea and road transport workers)	Created in 1994 (the National Department is from 1989), affiliates 100 unions in the various transport sectors in the country. No information on number of workers represented.
Confederação dos Trabalhadores no Serviço Público Federal – CONDSEF-CUT (federal-level public servants)	Created in 1990. Affiliates 37 unions and claims to represent 770,000 servants and to be the biggest public servants' union in Latin America.

Source: CUT and federation web sites; phone calls.

Main Mexican central trade union associations

Central federations	Central
Confederación de Trabajadores de Mexico	CT
Confederación Revolucionaria de Obreros y Campesinos	CT
Confederación Regional Obrero Mexicana	CT
Confederación de Obreros y Campesinos del Estado de Mexico	CT
Alianza Sindical Mexicana	–
Unión Nacional de Trabajadores	–
Public sector federations	
Federación de Sindicatos de Trabajadores al Servicio del Estado (public servants)	CT
Federación de Trabajadores del Distrito Federal (idem – federal district)	CT
Federación de Sindicatos de Trabajadores al Servicio de los Gobiernos de los Estados y Municipios de la República Mexicana (province and municipal servants)	CT
Industry-level unions	
Federación Nacional del Ramo Textil y Otras Industrias (textile and other – federation)	CT
Sindicato Mexicano de Electricistas (electricity)	CT
Sindicato Único de Trabajadores Electricistas de la República Mexicana (electricity)	CT
Sindicato de Trabajadores Petroleros de la República Mexicana (oil workers)	CT
Sindicato Nacional de Trabajadores Ferrocarrileros de la República Mexicana (trains)	CT
Sindicato Nacional de Trabajadores de la Educación (education)	CT
Sindicato de Trabajadores Textiles y Similares de la República Mexicana (textiles - union)	CT
Sindicato Nacional de Trabajadores Mineros, Metalúrgicos y Similares de la República Mexicana (mining)	(*)
Sindicato de Telefonistas de la República Mexicana (telephone workers)	UNT
Sindicato Nacional de Trabajadores del Seguro Social (social security)	UNT
Sindicato de Trabajadores de la Universidad Nacional Autónoma de Mexico**	UNT
Sindicato Independiente de Trabajadores de la. Industria Automotriz Volkswagen**	UNT
Asociación Sindical de Pilotos Aviadores (plane pilots)	UNT
Asociación Sindical de Sobrecargos de Aviación (cargo plane)	UNT
Sindicato Único de Trabajadores de la Industria Nuclear (nuclear industry)	UNT

* Quit the CT in May 2008.
** Big company-level unions.

International Labour Office (ILO)
DIALOGUE
4, route des Morillons
CH -1211 Geneva 22
Switzerland

Tel.: (+41 22) 799 70 35
Fax: (+41 22) 799 87 49
E-mail: dialogue@ilo.org
Web site: http://www.ilo.org/dial

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