

Drifting Apart: crises, social bloc realignment, and industrial relations in Brazil and Mexico (1994-2012)

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Abstract

This thesis is an exploration of the political aspects of labour regulation reform in Brazil and Mexico during the period of 1994 to 2012. Although literature on the matter is vast, the static aspect of some interpretations seems to be inadequate to understand the dynamic and politicized context of Latin American economies. As such, the current work presents a theoretical framework based on the writings of Bruno Amable (2017) about Dominant Social Blocs, and aims to construct an explanation of labour regulation reforms in the two countries according to the relative power of capital and labour in moments of different political leaderships. Through an analysis of literature, and utilizing descriptive statistics, the thesis finds that the relative power of labour and capital depends on the relative power dynamics of the two camps, and on political leaderships that manage to broker between conflicting interests in their supporting social bloc. This factor, in turn, influences the direction of industrial relations during the period, showing the importance of politics, and the dynamic nature of policy-making in Latin America.

Table of Contents

| | |
|---|----|
| Abstract..... | i |
| Table of Contents | ii |
| <i>List of Figures</i> | iv |
| List of Abbreviations..... | v |
| Introduction..... | 1 |
| 1. Theoretical Considerations: A Political Understanding of Labour Regulation Change in Latin America..... | 6 |
| 1.1. Engaging with the literature..... | 6 |
| 1.2. Proposing a theoretical framework: social groups, preferences, and changes in labour regulations..... | 8 |
| 1.2.1. The moment of change: social blocs in equilibrium or crisis ... | 9 |
| 1.2.2. The role of political leadership | 10 |
| 1.2.3. Agents of change: social groups as coalition members | 11 |
| 1.2.4. Coalition forming as a two-level endeavour | 17 |
| 1.2.5. The role of political leaderships: interest brokerage and coalition magnets..... | 18 |
| 2. The Case of Brazil (from Cardoso to Lula) | 19 |
| 2.1. Cardoso's Pro-Business Governments..... | 19 |
| 2.1.1. The Formation of the pro-business Social Bloc: fragmented labour and unified businesses (1995-2002)..... | 21 |

| | |
|---|----|
| 2.1.2. Responding to the Social Bloc: FHC's policies towards the flexibilization of industrial relations (1995-2002)..... | 26 |
| 2.2. Political Crisis and Re-Alignment of Social Groups: the 2002 election | 30 |
| 2.3. Lula's developmentalist policies: higher wages, employment, and contradictions..... | 32 |
| 2.4. Transitioning between Cardoso and Lula | 37 |
| 3. The Case of Mexico (from Zedillo to Calderón) | 38 |
| 3.1. Staying the course: The Zedillo presidency (1994-2000) | 38 |
| 3.1.1. The Institutional Revolutionary Party Leadership after Salinas | 39 |
| 3.2. Few reforms, more flexibility: The New Labour Culture under Ernesto Zedillo (1994-2000)..... | 42 |
| 3.3. The Mexican "transition" and PRI's electoral defeat | 45 |
| 3.4. The PAN governments from Fox to Calderón (2000-2012): consolidation, crisis, and change | 46 |
| 3.4.1. The Government of Vicente Fox (2000-2006) | 46 |
| 3.4.2. The Government of Felipe Calderón (2006-2012): the <i>sexenio</i> of the reform | 49 |
| 3.5. From Corporatist Pact to Labour Fragmentation | 52 |
| Concluding Remarks | 54 |
| References..... | 57 |

List of Figures

| | |
|--|------------------|
| <i>Figure 1 – Economic Freedom Index in Brazil and Mexico</i> | <i>2</i> |
| <i>Figure 2 – Political conditions of policy change.....</i> | <i>10</i> |
| <i>Figure 3. Informal and Autonomous Labour (1995-2012) as a % of the Economically Active Population.</i> | <i>13</i> |
| <i>Figure 4. Opinion about the Future of the Economy – Brazil (1995).</i> | <i>20</i> |
| <i>Figure 5. Wage Increases During the Cardoso Governments (1995-2002).....</i> | <i>20</i> |
| <i>Figure 6. Percentage of Unions Affiliated to Força Sindical and CUT.</i> | <i>23</i> |
| <i>Figure 7. Selected Labour Reforms During the FHC Administration.</i> | <i>24</i> |
| <i>Figure 8. Most Important Problem in the Country.</i> | <i>25</i> |
| <i>Figure 9. Open Unemployment (as a percentage of the Economically Active Population) – Brazil (1995-2002).....</i> | <i>28</i> |
| <i>Figure 10. GDP Growth (% Change) Under Cardoso – Brazil (1995-2002).....</i> | <i>30</i> |
| <i>Figure 11. Selected Labour Reforms During the Lula Administrations.....</i> | <i>33</i> |
| <i>Figure 12. Wage Increases During the Lula Governments (2003-2010).</i> | <i>34</i> |
| <i>Figure 13. Open Unemployment (as a percentage of the Economically Active Population) – Brazil (2003-2012).....</i> | <i>34</i> |
| <i>.....</i> | <i>35</i> |
| <i>Figure 14. Workers inspected about wage and work-hours (1990-2012).....</i> | <i>35</i> |
| <i>Figure 15. GDP Growth (% Change) Under Lula – Brazil (2003-2010).</i> | <i>36</i> |
| <i>Figure 16. Percentage of Unionized Workers Associated or not to the Labour Congress (1993-2000).</i> | <i>40</i> |
| <i>Figure 17. PRI Members of Parliament in Mexico by their labour and CTM affiliation.....</i> | <i>41</i> |
| <i>Figure 18. Unemployed and Part-time Employed Population in Mexico (1995-2000), as a % of the Economically Active Population).</i> | <i>43</i> |
| <i>Figure 19. GDP Growth (% Change) Under Zedillo – Mexico (1995-2000).</i> | <i>44</i> |
| <i>Figure 20. Summary of the Project Abascal.....</i> | <i>47</i> |
| <i>Figure 21. Temporary Workers in Mexico (as a % of total workers affiliated to the Mexican Institute of Social Security).</i> | <i>49</i> |
| <i>Figure 22. Unemployed and Part-time Employed Population in Mexico (2001-2010), as a % of the Economically Active Population.</i> | <i>50</i> |
| <i>Figure 23. GDP Growth (% Change) Under the PAN – Mexico (2001-2012).....</i> | <i>50</i> |
| <i>Figure 24. Summary of Calderón’s labour reform.....</i> | <i>52</i> |

List of Abbreviations

| | |
|----------|--|
| CLT | Consolidated Labour Laws (Brazil) |
| CNI | National Confederation of Industries (Brazil) |
| COPARMEX | Employer Confederation of the Mexican Republic |
| CT | Labour Congress (Mexico) |
| CTM | Mexican Workers' Confederation |
| CUT | Central Única dos Trabalhadores (Unified Workers' Central, Brazil) |
| FIESP | Industrial Federation of the State of São Paulo (Brazil) |
| FS | Força Sindical (Brazil) |
| IBGE | Brazilian Institute of Geography and Statistics |
| INEGI | National Institute of Geography and Statistics (Mexico) |
| LFT | Federal Labour Law (Mexico) |
| PAN | National Action Party (Mexico) |
| PRD | Democratic Revolutionary Party (Mexico) |
| PRI | Institutional Revolutionary Party (Mexico) |
| PSDB | Brazilian Social-Democracy Party |
| PT | Workers' Party (Brazil) |
| STPS | Department of Labour, Security, and Social Provision (Mexico) |
| UNT | National Workers' Union |

Introduction

This thesis is motivated by the observation of different trends in policy-making in the two largest countries of Latin America. The nations and periods were chosen because they provide an interesting puzzle, since, although there were similarities in their macroeconomic indicators (IMF 2018) and their economic juncture¹, both countries showed different results in policy-making that coincide with changes in the social composition of governments. The policy field of industrial relations was selected for it clarifies some of the deepest divisions in Latin American politics that are characterized by politically strong capitalist classes, and fragmented labour markets, in addition to making explicit one of the most contentious policy-making points in peripheral countries over the past three decades (see Cook 2007), and providing “a valuable point of reference for analysing the larger political context (Collier & Collier 1979, p. 971).

More specifically, the policy examples to be explored during the case studies will deal with *wage coordination, labour regulation, and labour law enforcement*.

Comparing Brazil and Mexico makes sense because, for all of their macroeconomic similitudes, and the similar corporatist structure that is pervasive in these nations since the 1930s and 40s, they usually drift apart when it comes to economic policy-making in general – and labour regulations in particular. During the time in which Brazil was pursuing most of its liberalization efforts, Mexico was still hanging on to the last corporatist mechanisms of protection for *labour market insiders*. Conversely, the 2000s saw two overtly pro-business governments in Mexico struggle (but ultimately succeed) to break the stalemate and pursue flexibilizing reforms, while Brazil had very much the opposite in Lula’s two tenures as a union-friendly president. Although during the period studied, few major institutional alteration was

¹ Both governments in the mid-90s (Cardoso, Zedillo) were consolidating after a deep inflationary crisis, while the governments in the 2000s (Lula, Fox-Calderón) had a more favourable economic juncture to work with, yielding different results.

undertaken in terms of labour regulations (until the very last months of the last year here studied)², there is a noticeable change in capital-labour relationships in both countries through other means (Cardoso & Hamasaki 2014; Ortiz & Gaytán 2011). I argue that these political leaderships took advantage of their nations' porous institutions to tweak policies in favour of their supporting coalition, which makes trends in the direction of policy-making in Latin America largely unpredictable and prone to constant change (see Figure 1).

As such, the periphery poses problems to mainstream understandings of capitalism, as these countries are characterized by lower institutional enforcement (Coslovsky, Pires & Bignami 2017; Fujii 2008), fiscal and monetary constraints generated by a subordinated position in global markets (de Paula, Fritz & Prates 2017), and highly heterogeneous societies (Kalecki 1993 [1966]), leading to an overly politicized debate about economic policy, and, as a result, to major contention over the functioning of labour regulations.

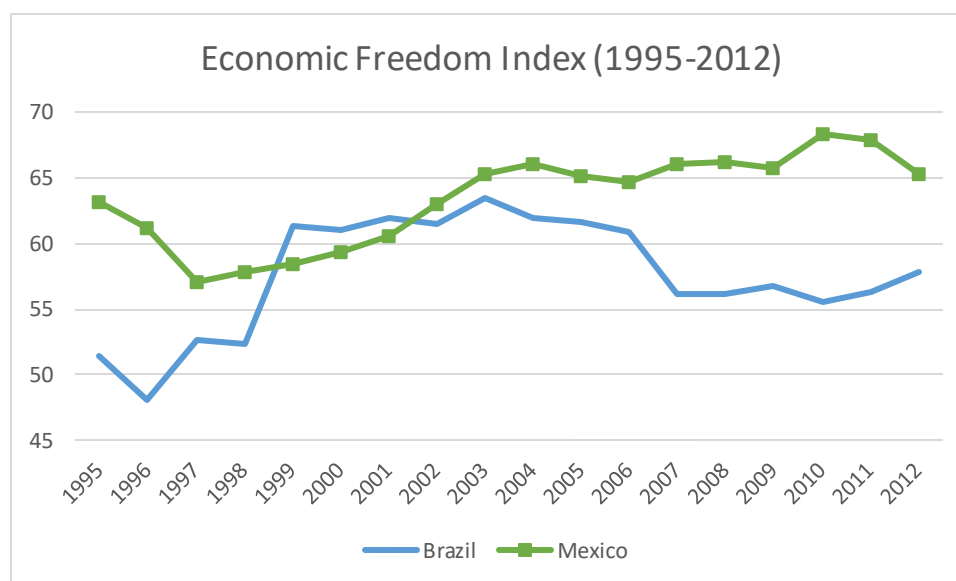


Figure 1 – Economic Freedom Index. Source: Heritage Foundation (2019)³

² Looking at Visser's industrial relations database (2016), one sees that, for the period of 1994-2012, nor Brazil or Mexico had no change on wage coordination, national minimum wage setting, the level of government intervention on wage bargaining, or the necessity to extend collective agreements to non-organised employers.

³ Unfortunately, the Labour Freedom Index is only available from 2006, and the Business Freedom Index has more to do with the costs of opening a business, and not the costs of labour. As such, I take here the EFI as an indicative of the change in policy-making direction in both countries. As will be shown in the case studies, this was also the trend for labour regulations.

As a result, mainstream theoretical frameworks like, for example, the Varieties of Capitalism (VoC) approach seems to be an uneasy fit when adapted to Latin American realities (see Schneider 2009; 2013) since it is overly preoccupied with institutional complementarities and a firm-centred approach that leads to an over-deterministic view of economic policy-making in contexts where the topic is more prone to frequent, yet incremental change (see Weyland 2008).

Two phenomena are interesting when looking at the realities of Brazil and Mexico during the 1990s and the 2000s. Firstly, the difficulty of implementing wholesale labour flexibilization even during “neoliberal times” (Cook 2007), and secondly how the lack of major institutional change allowed for a *de facto flexibility* (Coslovsky, Pires & Bignami 2017; Fujii 2008) that changed in degree depending on the relative power of organized labour and organized capital in the governing coalition. This calls for some adjustment on the “misperception that labor law reform [is] a one-way affair in which employers and neoliberal governments pushed through their free market agenda unopposed” (Anner 2008, p. 33). Although businesses do hold significant power in pushing for policy-making choices, I argue here that this will severely depend on the dynamics of *relative power* vis-à-vis labour, and on the Dominant Social Bloc (see Amable 2017) that holds power in a given period. Over time, relative power of capital and labour changes, affecting policy-making along the way.

As such, the thesis will be guided by the following question: *how does the different composition of governing coalitions affect policies in wage coordination and labour regulations in Brazil and Mexico?* Moving away from the analyses that hold institutions as statically complementary and mutually reinforcing (Schneider 2009; 2013), the thesis will emphasize political power relations as drivers of policy change, and look at moments of *political crisis* as the juncture in which social group re-shuffling happens. This process will be better explained in the sections below.

This first chapter of the thesis will be an attempt to deal with these problems in a systematic fashion. First of all, I will quickly present the main argument of *Varieties of Capitalism* (Hall & Soskice 2001), but giving particular emphasis to its adaptation to Latin American realities that were thus characterized as Hierarchical Market Economies (HMEs; Schneider 2009, 2013). This approach, I argue, is right on many of its diagnoses about the region, but it fails to see the importance of politics, and it gives too much stock to institutions that are weak and that do not complement each other very smoothly, or for very long. As such, the thesis will rely on more politicized approaches to political economy.

Prominent among new politicized approaches to economic policy-making are the “Electoral Turn” approach (Beramendi et. al 2015), and the Growth Models approach (Baccaro & Pontusson 2016, 2018; Lavoie & Stockhammer 2013), which have attempted to come up with political explanations for economic policy decisions over the recent years. However, while the former is not suitable to deal with political systems that are ideologically underdetermined (see Zucco & Power 2014; Mondragón 2012) and does not have as much room for labour market outsiders, the latter, by offering an explanation based on the multifaceted output variable of Growth Models, would pose problems for the scope of the present research.

As such, this thesis will base its explanation largely on the writings of Amable (2009; 2016; 2017) who considers institutions and policy-making as the product of socio-political compromises⁴.

This framework is more suitable to understand nations like Brazil and Mexico – that will be explored separately in subsequent chapters – where changes in government (and the groups that support them) usually preside over major changes in the way labour-capital relationships are carried out, but usually not over significant institutional overhauls, which denotes a more ‘malleable’ and dynamic scenario. This is not to say that institutions do not matter, or that

⁴ Writings of this nature are few. Most recently, Ilan Bizberg (2019) has released a volume that goes somewhat on this direction.

groups will do whatever they want disregarding these completely. Instead, governments ‘tweak’ these institutions, and change the way in which they operate. It is important to highlight that the keystone of these institutional frameworks – namely the *Consolidated Labour Laws* (CLT, in Brazil) and the *Federal Labour Law* (LFT, in Mexico) – have remained in place since the first decades of the 20th century, but their operation is altered constantly (Levitsky & Murillo 2012), highlighting what Bensusán (2006) have pointed out when talking about the distance between *legal design* and *real performance* of labour institutions in Latin America.

Since labour regulations are “a highly visible and concrete policy statement around which political battles are fought, won, and lost, and around which political support is attracted, granted, and withheld (Collier & Collier 1979, p. 971)”, in order to maintain their social base, governments have to adjust their policies on labour regulations despite the difficulty of changing the key institutional aspects.

This approach has an advantage when explaining the periphery because it is less (although still) concerned with institutional frameworks, and does not see them as a static equilibrium. In an environment rife with porous institutions, it would pay to understand differences due to changes in who are the groups represented in power, and not only through institutional overhaul.

1. Theoretical Considerations: A Political Understanding of Labour Regulation Change in Latin America

As briefly mentioned above, this research is motivated by a certain disagreement with the VoC literature and its application for Latin America. Without discussing the merits of the approach for understanding the complementarities within established institutional frameworks and its explanatory power for advanced capitalist economies (Hall & Soskice 2001), the specificities of the Latin American region make necessary that we look less towards institutions and more towards social actors and coalitions (Bizberg 2014).

That is so because of the character of institutions and policy-change in the region, since countries “are continuously modifying rules and institutions, with macroeconomic policies first on the list” (Lo Vuolo 2015). Given the multiple changes on industrial relations during the past 20 years (Cook 2007), it seems that this holds for this policy arena as well, posing questions about the suitability of a more static VoC approach for the region.

1.1. *Engaging with the literature*

Maintaining a “firm’s eye” on the region, Schneider says that Latin American economies are characterized by institutional traits that may be found at Liberal Market Economies (LMEs) and Coordinated Market Economies (CMEs), but that those do not necessarily complement each other positively. According to him, institutions in the Latin American Variety of Capitalism (baptized as Hierarchical Market Economies or HMEs) are “hybrid, syncretic, complex, interrelated, and politicized” (2013, p. 5).

However, for all that complexity, Schneider’s framework is quite parsimonious, and politics – although more present than in mainstream VoC for advanced economies – is seen as endogenous to the system and mostly a background concern. He identifies as mutually reinforcing institutions in HMEs: diversified business groups (DBGs), multinational corporations (MNCs), atomistic labour and employee relations, and low-skilled labour (2009,

p. 557). He characterizes this “hierarchy” to be pervasive in every aspect of Latin American political economies, since it characterizes employment, industrial relations (with employees lacking voice, and unions sparse and away from the shop floor), and the corporate governance of the region. Further, Schneider (2013, p. 9) sees a surprising continuity in these institutional patterns, since he describes institutional complementarities that have been quite consolidated since the 1970s.

The reality of Latin America, however, seems to depart from such continuity, since shifts are frequent (Levitsky & Murillo 2012; Weyland 2008), and the periodicity of changes coincide with re-configurations of political actors. Further, the very weakness of institutions also constitutes an impediment to the understanding of institutional complementarities and continuities per say. It is hard to envision a stable scenario where time horizons are short, uncertainty about institutions and their enforcement is rife, and actors cannot rely on formal rules to guide expectations (Levitsky & Murillo 2012, p. 190).

When looking at labour regulations in Brazil and Mexico – which would be an important component of any institutional complementarity in a capitalist variety – this scenario is even more striking. A major factor for any political economy, the scenario of industrial relations in Latin America seems much less like a stable component of a complementary institutional framework, and much more a contentious arena affected by political reconfigurations (see Cook 2007). The thesis of continuity would only hold true if one takes the institution of industrial relations in Latin America to depend *only* in the most fundamental labour laws, like the Consolidated Labour Laws (CLT) in Brazil, or the Federal Labour Law (LFT) in Mexico.

Although *de jure* rigidity was largely kept in place in two very corporatist environments like the ones studied, pressure towards flexible labour laws during the 1990s led to a *de facto* flexibility that has been studied empirically (Anner 2008; Coslovsky, Pires & Bignami 2017; Fujii 2008), the fact that the more marked variations coincide with political changes supports

the point made here that industrial relations respond more to political pressures than to institutional complementarities.

As such, I identify that the theoretical framework that deals with *Dominant Social Blocs* (Amable 2016; 2017) is more equipped to understand these political shifts. If institutions in Latin America are weaker and more prone to being applied more loosely or more rigidly responding to political shifts, then it is necessary to understand these dynamics. In this understanding, political leaderships are ‘brokers’ among the interests of heterogeneous groups (see also Gourevitch 1986), and reforms result from these political dynamics. In the next section, I will describe this theoretical framework, and briefly describe the reconfigurations observed in Brazil and Mexico during the period.

1.2. Proposing a theoretical framework: social groups, preferences, and changes in labour regulations

The proposed framework is borne out of a mix of different insights about political economy. The first premise of this framework is that there is no line that divides between interests and ideas (see Amable 2017, p. 7). People (and, by extent, groups) make decisions based on what they deem to be in their best interest, however, this rationalization is always bounded not only by the informational aspect, but also by their ideas about what is best. That being said, these perceptions are also not static, but they change responding to the choices presented by political leaderships, that must act as brokers of different interests in a coalition.

Peter Gourevitch (1986, p. 23), when looking at historical examples of institutionally weak polities, claimed that the “influence of societal actors in this period appears to have been relatively naked and raw”. For our cases, institutional and historical legacies are important (for example, the fact that the more important labour unions in Brazil and Mexico have deep historical relationships with political parties), however, since the thesis is intent in

understanding processes of *change*, I contend that the most important factor to explain those are the political composition of coalitions.

As such, in order to be able to identify policy-making change, this paper will focus on a relatively short time-span, but one where significant variations in wages and labour regulations can be seen. Even if there was not a complete overhaul of a general labour law, political changes usually come with different concerns over the relative power of capital and labour.

1.2.1. The moment of change: social blocs in equilibrium or crisis

In what probably is the most finalized version of his theoretical framework, Bruno Amable (2017) applies to the French case a Gramscian-inspired framework about the influence of social groups on economic policy-making. Although his definition of social groups is overly complex and disaggregated, his conceptualisation of political and systemic crises serves well for any social analysis of democratic politics (regardless of advanced or peripheral).

The author defines a political equilibrium as the existence of a:

[S]ocio-political alliance of groups whose most important expectations regarding the definition of public policy and the design of institutions has been sufficiently satisfied for them to support political leadership. But this situation does not necessarily correspond to the absence of change (Amable 2017, p. 5).

With that in mind, the existence of a *political crisis* presupposes that disagreements between the heterogeneous groups within a Dominant Social Bloc cannot be satisfactorily solved within the given institutional structure. As such, either a major change in policy (affecting institutions) will happen, or there will be change in the groups composing a DSB or their hierarchy.

This gives a roadmap to understand changes in policy-making. During a period of *political equilibrium*, changes in economic policy may happen, but always accommodating for the perceived interests of the social groups within the bloc in power. When the winds change, and *political crises* come about however, there is a scramble for new groups, and a re-shuffling of the interests that will be prevalent in a possible new cycle of policy-making that will differ from

the previous one, and will have effects on policy-making in diverse areas, including when it comes to labour regulations. A completely new DSB may emerge composed by new actors altogether. If a political crisis is not resolved, a *systemic crisis* may be installed, and this will be a moment of stalemate. To be sure, this will not be a permanent status, but a moment of political uncertainty.

| <i>Political Moment</i> | <i>Dominant Social Bloc</i> | <i>Policy Change</i> | <i>Possible changes</i> |
|------------------------------|--|---|---|
| <i>Political Equilibrium</i> | Stable, with possibility of minor changes | Minor, aiming to keep the peace within DSB | Little space for changes between capital and labour |
| <i>Political Crisis</i> | Re-shuffling, possible overhaul and new configurations | Major, aiming at gathering a new DSB, or significantly alter institutions | Greater possibility for pivotal policy change |
| <i>Systemic Crisis</i> | Paralysis, difficulty to find new arrangements among social groups | In the short-term, very little – no negotiation capacity. Uncertainty. | None until stalemate is broken |

Figure 2 – Political conditions of policy change. Source: own elaboration based on Amable (2017).

There is a difference, however, between the framework presented here and Amable's (2017) latest effort in the level of disaggregation. The author has focused more on the preferences of individual actors allotted into class categories. Conversely, and agreeing with Baccaro and Pontusson (published in Amable et. al. 2019), I will emphasize the power of organized interests, making an adjustment to include the vitally important and massive sector of *outsiders*, which are electorally unavoidable in peripheral nations.

1.2.2. The role of political leadership

In this still simplified model, I posit that political leaderships have a role to play as the conveyors of political discourses. In times of crisis, political leaders will advance understandings of policy-making that will act as 'coalition magnets' (Béland & Cox 2016)⁵ and play to the preferences of the social groups that will be explained below. A political leadership will manage to gather a stable Dominant Social Bloc (DSB) when it builds a coalition that can

⁵ Béland and Cox are using policy ideas as 'coalition magnets'. This intuitive idea puts that 'policy entrepreneurs' will advance discourses aiming to pique the interest of groups writ large. They are also dealing with smaller policy issues. Here, however, I am specifying the groups and their preferences, and defending that political leaderships are aiming to grant their support, although they are not always successful.

somewhat straddle the class divide, and keep some social acquiescence avoiding both social unrest (from labour confederations and unions, or from mass civil unrest), and investment strikes (from the capitalist classes). Further, even though in times of crisis the same groups may remain in the bloc, the *hierarchy* of these groups and their political power inside the bloc will change, and hence their *capacity* to influence economic policy-making may change dramatically after a political crisis.

1.2.3. Agents of change: social groups as coalition members

This section will aim to characterize the main groups that may compose a powerful enough coalition to push for changes in labour regulations. For our purposes, it is important to understand the main groups of organized interests that impinge on labour regulations, namely *organized capital* (corporations that are represented by business organizations), and *labour insiders* (those with a long-term, formal employment contract) that are represented by unions and labour confederations which, in Brazil and Mexico, have deep historical connections to governments and the state (Bensusán & van Bülow 1997).

The main premise here is that policy-makers will make labour regulation decisions based on the influence of organized societal interest groups (in our case a still simplified model with organized capital and labour)⁶. These large groups are not homogeneous within themselves, and their influence on policy and bargaining power will largely depend on their capacity of attaining *unity* within the group, and their affinity to political leadership. In our cases, it becomes clear that a fragmentation of the multiple peak confederations in Brazil and Mexico made a difference in the periods of economic liberalism, making labour weaker, and their capacity to counteract business interests less prominent (Cook 2007; Mancuso 2004).

⁶ For a similar (and more complex) analysis of political determinants on the field of exchange rate policy see Steinberg (2015).

Another important part of the analysis will have to deal with the so-called *outsiders*. Those are the unemployed, temporary, informal workers, or those on jobs that have low levels of protection and employment rights (Rueda 2005, p. 62). These people are unavoidable in most democratic peripheral economies. Due to the necessity of legitimizing coalitions electorally, it is not enough that labour and capital reach an agreement, or that the relative power of capital is so strong that it can govern alone. There is also the need of guaranteeing the vote of at least a part of the outsiders. In economies like Brazil and Mexico, informal and autonomous (*conta própria/cuenta propia*) workers accounted, during almost the entire period, for more than half of the labour force (see Figure 3).

As such, I will analyse below the interests of organized capital and labour, pointing out to the possible political compositions and confrontations, focusing on the role labour confederations and business associations. Since the thesis will deal with peripheral democratic capitalist countries, these organized groups have to get their ideas through to outsiders and tap into their electoral potential. This idea is somehow analogous to the perception brought forth by Baccaro and Pontusson (2016) that, to be successful, coalitions have to “legitimately claim to represent the ‘national interest’” (p. 26). In our cases, such feat is untenable without claiming support of labour market outsiders.

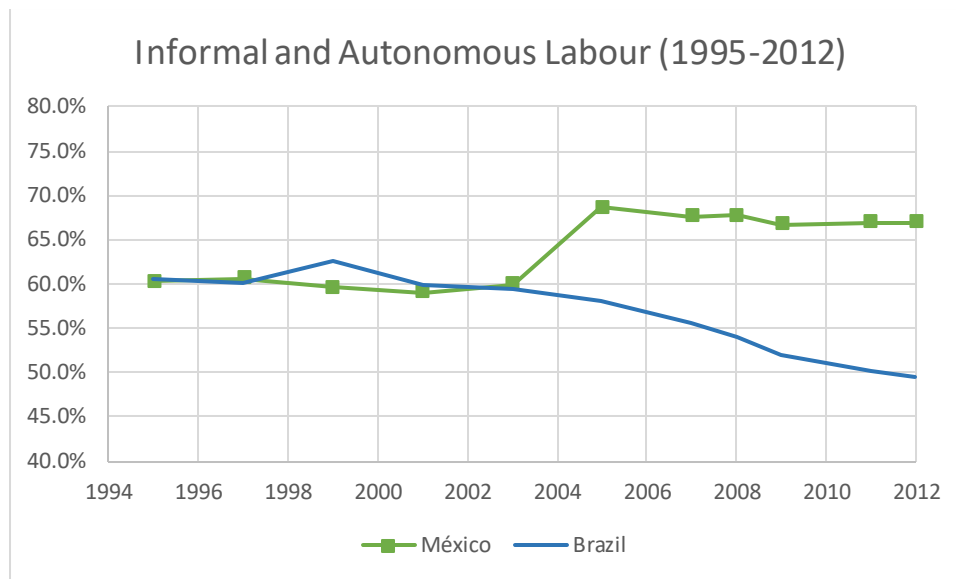


Figure 3. Informal and Autonomous Labour (1995-2012) as a % of the Economically Active Population. Data for Brazil from PNAD/IBGE (2018), and for Mexico from INEGI based on the calculations of Cervantes and Acharya (2013).

Both organized groups will be treated as blocs with dynamic interests that may compose a coalition or oppose it. Although there are rifts between Multinational Companies (MNCs) and Domestic Business Groups (DBGs)⁷ in numerous fields, they usually concur to defend greater liberalization in terms of labour regulations and wage coordination, and so will be treated here as an aggregated ‘capitalist’ group.

In the case of labour insiders, both Brazil and Mexico have multiple ‘peak labour confederations’, which could undermine their power, since “labor is stronger where there is a single peak labor confederation and where internal and ideological divisions are limited” (Cook 2007, p. 21). In moments where these confederations converge (such as in the case of Brazil after 2003), labour becomes stronger, and they manage to either oppose and stall labour regulations, or, if they are represented in government, strengthen regulations in labour’s favour. These alignments of interest are dynamic, and this dynamism will be shown in our case, since, alliances and institutions will make sense only while it strengthens the group or furthers their interest (Amable 2016).

⁷ These groups are usually family owned, have deep political ties and capacity for organization, and are diversified when it comes to the sector in which they operate (see Doner & Schneider 2016).

As mentioned above, interests are seen here as inseparable from ideas, which also makes them dynamic (Steinberg 2015). Capitalists will not be guided by the same ideas in perpetuity, neither will organized labour or outsiders. These heterogeneous groups will have moments of more unity or more contention. During the 1970s, a good part of large domestic groups in Latin America was convinced that Import Substitution Industrialization served their interests, this became a contentious point in the 1980s, and a new, more liberal, agreement emerged in the 1990s.

1.2.3.1. The Capitalist Bloc

The flexibilization of labour laws in Latin America has a long history of being supported by the so-called *sindicatos patronales* (literally translated as employers' unions), and business federations (Fairfield 2010). This was so in Brazil, where the most important business federation, the São Paulo State Industrial Federation (FIESP) was one of the defining forces backing the reforms of the 1990s (Krein 2004). In Mexico, the Employer Confederation of the Mexican Republic (COPARMEX) presented proposals for a wholesale reform of the Mexican Federal Labour Law (LFT) since the 1980s until its approval in the last months of the Calderón government in 2012 (Pérez 2014).

As such, businesses are interested and willing to push reforms that will flexibilize employment relations, devalue wages, and push unit-labour costs down. Capitalists in Latin America, through their powerful business associations, are possessing of an *institutionalized voice*, making them important – perhaps *the most important* – brokers in possible political coalitions, and the ones with the biggest capacity to make their concerns heard by political leaderships, and to lobby for reform (Weymouth 2012). Although coalition formation is a matter of political struggle, capital owners are in a superior position (Baccaro & Pontusson 2019), since it is hard to imagine building a political coalition in a capitalist system without the presence of capitalists themselves (Bresser-Pereira & Ianoni 2015). However, the Capitalist

Bloc is not always unified around the same political leadership; although they mostly agree on the matter of labour regulations, businesses with different capacity to compete and on different sectors may diverge and undermine the articulation capacity and political power of this interest group⁸.

The biggest difference, however, among the coalitions that will be presented in our case studies, is not the presence of capitalists per say, but instead the relative power of said capitalists in an incumbent political coalition. In the last PRI government in Mexico (1995-2000), the fact that a mostly unified and moderately strong – although docile – labour confederation like the Mexican Workers' Confederation (CTM) was *officially* part of the government meant that changes did not touch dismissal costs, for example, even during a time of deep economic crisis (Cook 2007). Meanwhile, in Brazil, the very partisanship of different labour confederations made for a different scenario, since the most representative ones were at odds during the 1990s (Rodrigues 2015). Since labour and capital are mostly at opposite ends in the labour regulation arena, negotiations will depend on their unity and relative power during the moment of political crisis and the conditions presented by political leaderships.

1.2.3.2. Insiders – Voice through organized numbers

In this characterization, insiders will mean those with a long-term, formal contract in both the private and public sectors⁹. More specifically, I will deal here with the political representatives of insiders, namely, Organized Labour, in the figure of labour confederations. Despite the fall in unionization levels in the past few years, the ‘insider’ sector is still an important political force in large middle-income economies because of their capacity to organize large absolute numbers in demonstrations, and their ability to orchestrate strikes in

⁸ This more careful sub-division of groups and the broadening of policy arenas will be the subject of future work.

⁹ By looking at the unions represented at federations, public sector employees are prominent in their representation (especially the public school teachers' union, and, in the case of Brazil, the public banking sector workers).

important sectors of the economy¹⁰. Regardless of the misfortunes of unionization in the past 30 years, Brazil and Mexico still have, respectively, around 18 and 7 million people affiliated to labour unions (IBGE 2018; INEGI 2018), and, as mentioned above, labour regulations are mostly difficult to change. Organized labour will defend higher wages, more rigidity in matters of firing costs, and more flexibility to strike.

Also, labour confederations are often historically connected to parties, what gives them some entry in institutionalized politics (Armenta 2006; Rodrigues 2015). This allows them to support contenders for leadership, and to oppose political leaderships that they deem to be against their interests. Further, when the DSB is composed with a unified organized labour, it is likely that some representatives of unions will occupy public office and even cabinet positions. The difficulty, however, is that both Brazil and Mexico are characterized by more than one important labour confederation, and those are constantly at odds on how to deal with labour flexibilization. As it will be seen, even governments that are pro-business may be composed by some labour confederations that are less militant (such as the case of *Força Sindical* in Brazil) and who are willing to negotiate to lessen flexible reforms instead of rejecting them outright.

1.2.3.3. Outsiders – A voiceless majority

Two problems with working with the *outsider* typology are that, in one hand, they are unavoidable when studying Latin American nations. The sheer number of people in *informal* conditions of labour (that is, working without a contract or ‘self-employed’) are often times equal or larger to the formally employed (see Figure 3). The second problem is how to exactly characterize them. Here, I will use the typology that is commonly used by statistical institutes

¹⁰ Although Schneider (2009) insists that there are low levels of unionization in peripheral nations, it must be said that union density in countries like Argentina, Brazil, Chile, and Mexico (27.7, 16.9, 17.9, and 12.9 respectively) is not that far away from the ones in Austria, Germany, and the Netherlands (27.7, 17.7, and 18.1 respectively) (ILO Data 2019, for the year of 2014). This leads us to think if unionization is in fact a fair measure of the precariousness of industrial relations in Latin America.

in Latin America to refer to the unemployed, ‘informal’, and ‘self-employed’ (*cuenta propia*) workers.

Another issue is that outsiders have virtually no capacity of articulation, meaning that their interests are not unified, and are much more dynamic than the ones from organized social groups. Although their votes may be pulverized almost randomly among different options of political leaderships, there is precedent for certain discourses that galvanize their support *en masse* by playing to some of their biggest needs for redistribution and public services on which they depend. In insider-outsider theory (see Schwander 2019), it is highlighted that insiders and outsiders have different preferences on matters of redistribution and labour regulations. It is argued that, by maintaining certain restrictions to hiring/firing, labour-friendly governments are creating barriers for the formalization of outsiders (Rueda 2006), although empirical evidence for that is sparse. In a recent empirical study, Guillaud and Marx (2014), they find that this claim is right mainly for the unemployed, while temporary workers do not diverge that much from insiders. It seems, however, that the interests of outsiders fluctuate depending on their expectation of upward mobility (Bénabou & Ok 2001; Hirschman 1973).

As such, the kind of policy supported by outsiders will largely depend on what is being presented to them by political leaderships and on the perceived economic conditions and problems¹¹.

1.2.4. Coalition forming as a two-level endeavour

With the four groups presented, it is necessary to add some nuance. First of all, as said above, interests of groups fluctuate across time depending on the economic conjuncture and their perception of the existence and nature of a political crisis, and that is what makes coalitions fluid and changeable. However, as seen above, not all groups have the same power. In a sense,

¹¹ From 1997 to 2010 the number of people who perceive wage distribution to be ‘just’ or ‘very just’ fluctuated from 7% to 21% in Brazil and from 28% to 15% in Mexico (Latinobarómetro 2019).

capital has powerful tools to exert influence, and insiders have a combination of coordination and numbers that makes their voices heard even when a business-friendly coalition is formed. Outsiders, however, have no *active* capacity to shape policy-making.

Coalitions, I posit, in order to govern, have to sustain the support of the organized groups that compose the government. Usually, they need to straddle the class divide, and manage to get at least *some* support of labour confederations to avoid general strikes. That being said, it is common to see more business-oriented governments appealing to the less militant unions (as it is the case of *Força Sindical* during the Cardoso government) (Cook 2007).

However, capacity of this social bloc to accede to power rests also on their ability to have some of the majority of outsiders to their side. As such, coalition forming is a *two-level* endeavour. At a first moment, contenders have to gather support from active groups, and later present it to outsiders for their preference. Given their massive number, it is impossible that a group will *democratically* accede to power without any support from outsiders. Their importance, thus, is crucial, but their inexistent coordination gives them no unified capacity to shape policy-making.

1.2.5. The role of political leaderships: interest brokerage and coalition magnets

In this still simplified model, I posit that political leaderships have a role to play as the conveyors of political discourses and proposals. Political leaders will advance understandings of macroeconomic policy that will act as ‘coalition magnets’ (Béland & Cox 2016)¹² and play to the preferences of the social groups explained above. A political leadership will manage to gather a stable Dominant Social Bloc (DSB) when it builds a coalition that can somewhat straddle the class divide, and keep some social acquiescence avoiding both social unrest, and investment strikes.

¹² Béland and Cox are using policy ideas as ‘coalition magnets’. This intuitive idea puts that ‘policy entrepreneurs’ will advance discourses aiming to pique the interest of groups writ large. They are also dealing with smaller policy issues. Here, however, I am specifying the groups and their preferences, and defending that political leaderships are aiming to grant their support, although they are not always successful.

2. The Case of Brazil (from Cardoso to Lula)

One can understand the case of Brazil as a story from a ‘liberal’ to a ‘developmentalist’ coalition (Cardoso & Hamasaki 2014). This analysis stems from the marked differences on diverse arenas of policy-making between the Cardoso government (1995-2002) and the Lula government (2003-2010), which also left indelible marks on industrial relations in the country (Krein, Santos & Nunes 2011).

The intrinsically political, contentious and dynamic aspect of labour regulations is quite clear-cut in the case of Brazil, since the attempts towards broad legal reforms of labour markets during the 90s only partially succeeded, and some of those were revoked during the first decade of the 21st century “when the game of political forces that dictates this area’s crucial deliberations changed sides” (Cardoso & Hamasaki 2014, p. 19-20).

2.1. Cardoso’s Pro-Business Governments

The government of Fernando Henrique Cardoso (FHC) acceded to power on the back of the ‘Real Plan’, a macroeconomic plan aiming at price stabilization through an artificially overvalued currency peg to the US Dollar. Cardoso was the Economics Minister during the final days of the plan’s implementation and largely got the credits for ending years of hyperinflation. This led him to an easy election win without the need for a run-off, gaining 54% of the vote in a race with eight candidates, and winning in 26 of the 27 states of the union.

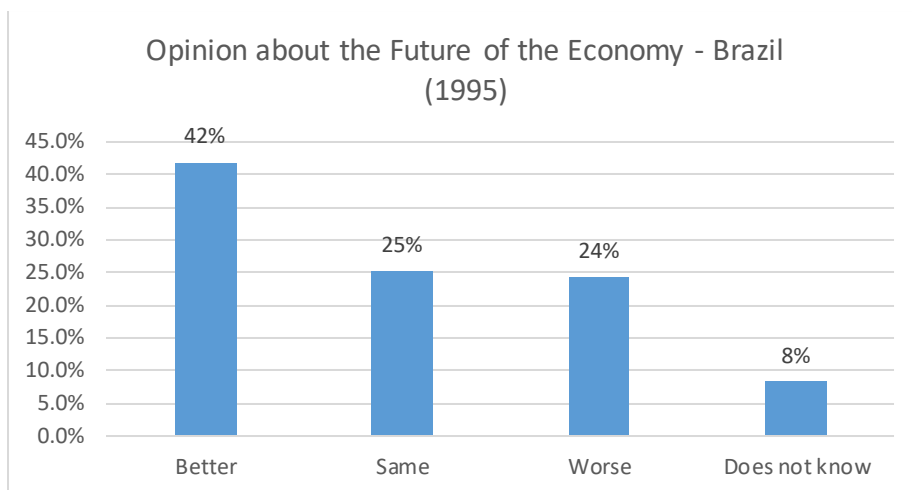


Figure 4. Opinion about the Future of the Economy – Brazil (1995). Data from Latinobarómetro (2019).

Cardoso had the advantage of negotiating from an advantageous position. On the one hand, the hyperinflationary crisis that preceded his government was one of the most severe in the country's history, enough to ask for sacrifices and aim at structural reform. On the other, the economic situation was, in fact, more stable at the time he took office, and he could claim credible responsibility for the feat, and for bringing some predictability for the purchasing power of the minimum wage, fixed at US\$ 100.00/month in his first year as president (IBGE 2016). These initiatives had a double effect: it was a part of the Real Plan price stabilization mechanism, and affected wage negotiations in the formal sector.

| <i>Year</i> | <i>Minimum Wage (Nominal BRL)</i> | <i>Nominal Increase</i> | <i>Inflation (INPC)</i> | <i>Real Increase</i> |
|-------------|-----------------------------------|-------------------------|-------------------------|----------------------|
| 1995 | R\$ 100.00 | | | |
| 1996 | R\$ 112.00 | 12.00% | 9.12% | 2.64% |
| 1997 | R\$ 120.00 | 7.14% | 4.34% | 2.69% |
| 1998 | R\$ 130.00 | 8.33% | 2.49% | 5.70% |
| 1999 | R\$ 136.00 | 4.62% | 8.43% | -3.52% |
| 2000 | R\$ 151.00 | 11.03% | 5.27% | 5.47% |
| 2001 | R\$ 180.00 | 19.21% | 9.44% | 8.92% |
| 2002 | R\$ 200.00 | 11.11% | 14.74% | -3.16% |

Figure 5¹³. Wage Increases During the Cardoso Governments (1995-2002). Own elaboration with data from IBGE (2018) and DIEESE (2016).

During both tenures, president Cardoso enjoyed the backing of the National Industrial Confederation (CNI) and the São Paulo Industrial Federation (FIESP) for all of his labour

¹³ Real increases during both tenures of FHC averaged 2.68%.

reforms and for his wage policies (Delgado 2001). From the beginning, FHC was expected by employer organizations to follow the price stabilization efforts with more modern industrial relations.

2.1.1. The Formation of the pro-business Social Bloc: fragmented labour and unified businesses (1995-2002)

After an unmistakable moment of *political crisis* that lasted from the end of the military dictatorship until 1995, Fernando Henrique Cardoso became the head of the first democratically elected and stable government in the country since the tenure of Juscelino Kubitschek (1956-1961). FHC came to power supported by a broad centre-right *liberal coalition* that included the most important Domestic Business Groups in Brazil (represented by FIESP), and some of the so-called *sindicalismo de resultados* (pragmatic unionism) represented by the recently founded *Força Sindical* (Trópia 2008). This composition of unified capital and fragmented labour accompanied the Cardoso government as a stable DSB until the very end of his two terms, in which the government managed to pass many flexible reforms (see Mancuso 2004), but failed to pass a more comprehensive reform of the *Consolidated Labour Laws* (CLT).

During FHC's first tenure, business associations gave strong support to flexible labour reforms, since the companies who could gain from flexibility managed to galvanize their political power, while some of the losers in the capital-owners side lost the influence they had inside business associations. This confluence of capitalist unity and the adherence of the non-militant¹⁴ fraction of labour created a strong component of this business-oriented Dominant Social Bloc (Bresser-Pereira & Diniz 2009).

On the capitalist side, this was made possible after the unification of the business class around the agenda of lowering what they called *Custo Brasil* (*Brazil Cost*, a slogan aiming at

¹⁴ One possible reason why the Força went down the route of pragmatic, non-militant unionism could be the history of its founder, Luís Antônio de Medeiros. Medeiros was the successor of Joaquim dos Santos Andrade, a more conservative unionist who supported the military coup of 1964 (Abreu et. al. 2010).

translating all of the rigidity and red tape that made Brazilian companies less competitive), of which the main component was reducing unit labour costs and flexibilizing employment relations (Mancuso 2004).

The more fragmented support from the labour side was possible since this period coincided with the rise of the aforementioned *pragmatic unionism*. Although the *Força Sindical* (FS) was founded in 1992 with the aim of being independent from political parties, the marriage of convenience between the second largest labour organization in the country and the ruling Brazilian Social-Democracy Party (PSDB) was instrumental in enabling the flexible reforms that took place during the first FHC government (Rodrigues 2015)¹⁵. The FS declared formal support to FHC's campaign and afterwards to the established government (Folha 13/05/1995).

This division of labour confederations managed to diminish the capacity of the more militant – and more numerous – Unified Labour Central (CUT) to unify a labour bloc to oppose the reforms.

Across its main proposals, the Força wanted more flexible hours, and a laxer application of the *Consolidated Labour Laws* (CLT) so as to let the “negotiated supersede the legislated” – an idea that was prominent for the employers' organizations at the time (Cardoso 2010, paragraph 9). Their hope was that laxer regulations would help on the formalization of more workers and increase their base (Trópico 2008). Since the interests of the FS were not far from the proposals endorsed by employer organizations, their participation in the same coalition is not surprising.

¹⁵ Rodrigues (2015) claims that the relationship between the FS and the PSDB was one of inorganic partisanship, meaning that only a few FS cadres were officially affiliated to the PSDB, and that this relationship was less fixed, but clear.

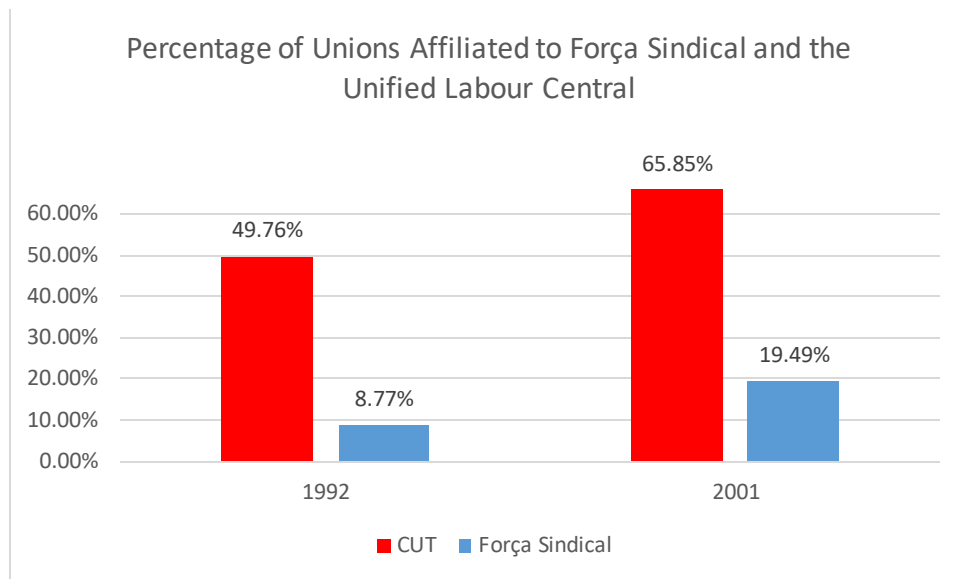


Figure 6. Percentage of Unions Affiliated to Força Sindical and CUT. Own elaboration with data from IBGE (2001)¹⁶.

On the same line, FHC’s policy proposals focused on flexibilizing industrial relations as a way of tackling unemployment. The themes of employment and employment relations were the most mentioned issues (150 times) in his 130-page book *Mãos à Obra, Brasil* (Get to Work, Brazil) (Cardoso 1994) that served as a campaign manifesto and largely as a guideline to his government. The text of the document focuses on wages on the basis of keeping inflation low, and providing minimum yearly increases that kept purchasing power without pursuing nominal valuations that could lead to inflationary pressure (p. 92). Also, Cardoso proposed to “democratize labour relations, matching the *principle of free negotiation* with guaranteeing workers’ fundamental rights (p. 60)”.

Already in April 1995, the Labour Ministry captained by Paulo Paiva defended reducing the power of Labour Courts, and excluding some of the precepts of labour rules from the Constitution, as a way to “strengthen unions and keep the power of the state away [from negotiations] (Abreu et. al. 2010, paragraph 8).” His idea was to take some of the labour rights

¹⁶ The Union Survey elaborated by IBGE was held in 1987-1992, and then another edition – so far the latest – was held in 2001. These are the only reliable data on union confederations since the Brazilian Labour Ministry’s website is no longer online. The institution was extinguished by the Bolsonaro government and its databases are inaccessible since January 2nd, 2019.

away from the rigidity of Constitutional obligations, and into the realm of collective contract negotiations. The minister believed these constitutional provisions were responsible for increasing the already sizable informal sector of the economy, and ‘locking out’ some of the massive contingent of unemployed people (Abreu et. al. 2010).

| <i>Law/Year</i> | <i>Theme</i> |
|---|--|
| <i>MP 1035/1995</i> | Wage Indexation |
| <i>Decree 2100/1996</i> | Denouncement of ILO Convention 158 |
| <i>MP 1906/1997</i> | Wage-setting by the national government |
| <i>MP 1709/1998</i> | Part-time Labour |
| <i>Law 9601/1998</i> | Fixed-term contracts and ‘hours bank’ |
| <i>MP 1726/1998</i> | Temporary Suspension of Employment Contracts |
| <i>Law 9957/2000</i> | Separate expedited procedures for labour disputes under 40 minimum wages |
| <i>Law 9958/2000</i> | Individual arbitration commissions for labour conflicts |
| <i>Law Project to Amend the CLT - PL 5483/2001</i> | Wholesale proposal to flexibilize the CLT – Stalled in the Senate |

Figure 7. Selected Labour Reforms During the FHC Administration. Own elaboration based on Cook (2007) and Krein (2003; 2004)

In practice, the first few actions of the FHC government went on the direction of making contractual wages a matter of negotiation instead of a matter of indexed values. With the support from Força Sindical and from business associations, this political leadership managed to present

and approve many of its proposals for flexibilizing industrial relations (see Figure 6) (Krein 2004; Trópio 2008). Since the power of labour was weakened due to its division, and since businesses had a unified agenda, the coalition that supported FHC was very favourable towards flexible reforms. Cardoso's able brokerage managed to retain support from the vital national bourgeoisie (Bresser 2009), and to a more docile part of organized labour.

On the matter of outsiders, Cardoso's proposals for the large public were heavily focused on employment. Having managed to keep inflation down via the Real Plan, the matter of price stabilization became a foregone conclusion. Instead, the attention of the Brazilian population turned towards employment, and this kept on being the main issue throughout his two tenures (see Figure 8).

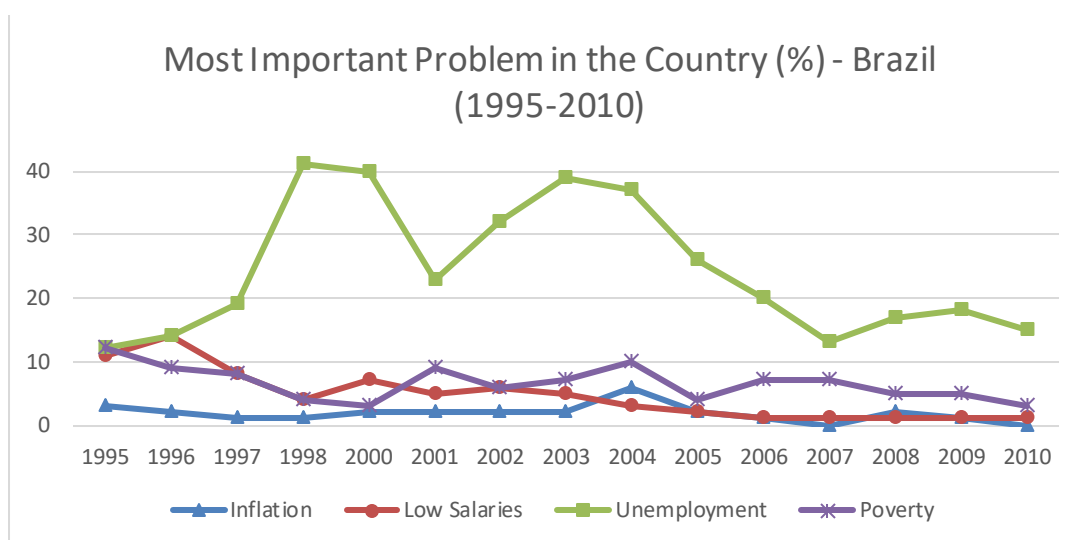


Figure 8. *Most Important Problem in the Country*. Own elaboration with survey data from Latinobarómetro (2019)¹⁷.

The employment agenda defended by Paiva and Cardoso was largely focused on diminishing barriers to entry into the formal market, and stimulating private investment through reduced labour costs in the hope that this would bolster formal employment. In FHC's first election, his electoral success was largely about the benefits that were accrued by the poorest

¹⁷ Only economic matters were included in the graph. Corruption, health, and public safety also figure prominently among the issues cited by respondents.

in the country due to price stabilization (Singer 1999). However, the matter of employment regulations was responsible for both the consolidation of the DSB's organized interests and for addressing one of the main issues in public opinion, as shown by FHC's campaign document (Cardoso 1994).

Having convinced the general public and managing to win the election, retaining support from organized interests became one of the main drivers for flexibilizing labour regulations. Also, the support from pragmatic unionism took out some of the steam from militant confederations to call for strikes against labour reforms. The formation of this coalition that straddled the class divide influenced the direction of the FHC governments labour reforms towards a more liberal orientation (Cardoso & Hamasaki 2014). Some of the main policies will be explored below.

2.1.2. Responding to the Social Bloc: FHC's policies towards the flexibilization of industrial relations (1995-2002)

After the first signals of the government towards flexibilizing reforms, the administration decided to issue a decree denouncing the ILO Termination of Employment Convention 158. The convention precluded contract termination with an employee "unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service (ILO 1982, art. 4)". This convention mandated that employers needed to justify their contract terminations with "reasons of an economic, technological, structural, or similar nature" (ILO 1982, art. 13), giving a period of notice. Also, the Convention stipulated that employer contemplating multiple terminations had to consult with workers' representatives. This put the burden of proving the justification for a dismissal fully on the shoulders of employers, and led to backlash from employer organizations, which articulated, through the CNI, to oppose it (Eiras & Águila 2016). These actions led FHC to *unilaterally* denounce the Convention before its appreciation by the Brazilian Supreme Court. This increased *de facto* flexibility, and this denunciation contributed

for greater turnover of industrial relations and shorter periods of employment in the aggregate (Camargo 1996). This decision was announced in the *National Labour Council* (CNT), and was justified by the labour minister as a measure that would bolster the creation of employment. As a protest, the Unified Labour Central withdrew from the council, and was thus consolidated as the opposition to flexible reforms (Von Bülow 1998).

Another interesting development is perhaps the better known flexible reform of the FHC years. In 1996, Paulo Paiva presented to Congress the Law Proposal 1724/1996 that aimed at combating unemployment via flexibilization. The Proposal was passed into law in January 21st 1998 as the Law 9601/1998 with the support from the CNI, and the Força Sindical (Krein 2004).

In practice, the law created a new regulation for fixed-term contracts, diminishing all mandatory social contributions by half, and dispensing with many of the provisions for severance pay. Also, it made the provision that workers that did overtime could be compensated with time off work. This practice became known as the ‘hours bank’. On the day immediately after its approval by the Senate, parties on the left (including the Workers’ Party, organic partner of the Unified Labour Central)¹⁸ formally contested the law’s constitutionality to no avail (Oliveira 2010).

However, two very important matters were left unsolved. First of all, with the campaign for re-election fast approaching, Cardoso knew that he needed to again sell the point his government as one that was committed to tackling unemployment, as this was still very much a concern for the general public (see Figure 8 above), and an actual problem, as shown by the open unemployment numbers (see Figure 9), and an informal market stuck at 60%.

¹⁸ For more on this organic relationship see Rodrigues (2015).

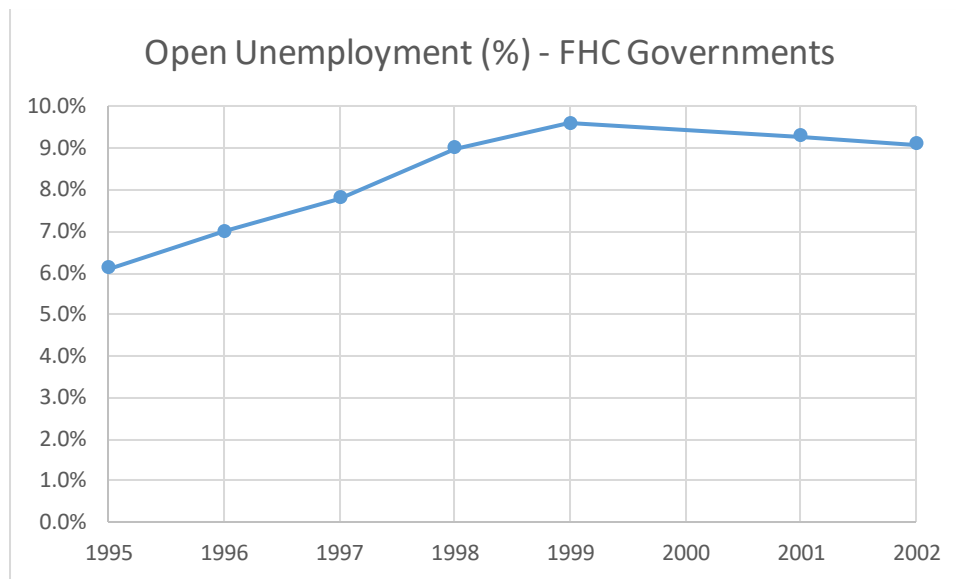


Figure 9. *Open Unemployment (as a percentage of the Economically Active Population) – Brazil (1995-2002). Own elaboration with data from IBGE (2001)*¹⁹.

Cardoso survived another electoral cycle without major hiccups, again being elected without the need for run-off elections, and getting 53% of the vote across the country. Even granting the possibility to run for re-election – which was not allowed until the law was changed in 1998, same year of the presidential race – needed the support of both Força Sindical (Folha 15/01/1997) and employer organizations. The presidents of the two main state-level business federations declared their trust in the President and the then Industry Minister Francisco Dornelles, claiming that the two were the pilots in the “Boeing of economic development” (Folha 24/09/1996; 26/09/1996).

After gaining re-election, Cardoso appointed Dornelles, a conservative Harvard-educated tax lawyer who had the favour of industrial federations to the Labour Ministry²⁰, while Paulo Paiva was transferred to the Planning Ministry.

Taking office during an employment crisis, Dornelles sought two main objectives: reducing the ‘judicialization’ of industrial relations (through the laws 9957 and 9958), and reforming the CLT for good (through the Law Proposal 5483/01), which would finally fulfilling

¹⁹ Data for Census years (2000 and 2010) are missing.

²⁰ Dornelles defended the same agenda of reducing the Brazil Cost during his tenure as Industry Minister (Abreu et. al. 2010).

the long-lasting wish of employers that the “negotiated supersede the legislated”²¹. The first objective prospered, with both Law Proposals going through Congress.

This wholesale reform of the Brazilian labour law had strong support from Força Sindical, who attacked CUT’s opposition to it. Paulo Pereira da Silva, FS’s president even said that the reform was “too timid”, and that the CUT was a labour confederation that did not know how to negotiate (Thuswohl 2001). The reform was stalled in the Senate late in 2002, and electoral preoccupations barred its going back into debate. The bill was eventually archived in the first year of Lula’s tenure.

Despite this loss late in the day of the FHC governments, the unity of the business class and the division of organized labour had deep political consequences, making this phase one of the most economically liberal in the country’s history. By looking at data from the CNI, it is possible to verify that businesses were largely successful in their political endeavours during the FHC governments, managing to approve around 75% of the legislation they lobbied for (Legisdata 2019; Santos 2014).

The reforms promoted by eight years of Cardoso’s pro-business leadership did benefit employers, and it enjoyed strong support from a stable Dominant Social Bloc. However, two factors led to a fragmentation of businesses in the next electoral cycle of 2002. First of all, the fact that the reform of labour relations was incomplete and did not lead to growth started to breed some discontent in the capitalist class (Delgado 2003). Secondly, the disapproval of the FHC government was starting to grow (CNT 2018)²², and his capacity to successfully elect a successor was doubtful.

²¹ This has been in every Industry Legislative Review published by the CNI since its first publication in 1996 until the reform of the law in 2018 (CNI 2018).

²² A time series shows that, in July 2002, only 30% of the population considered the FHC government as positive.

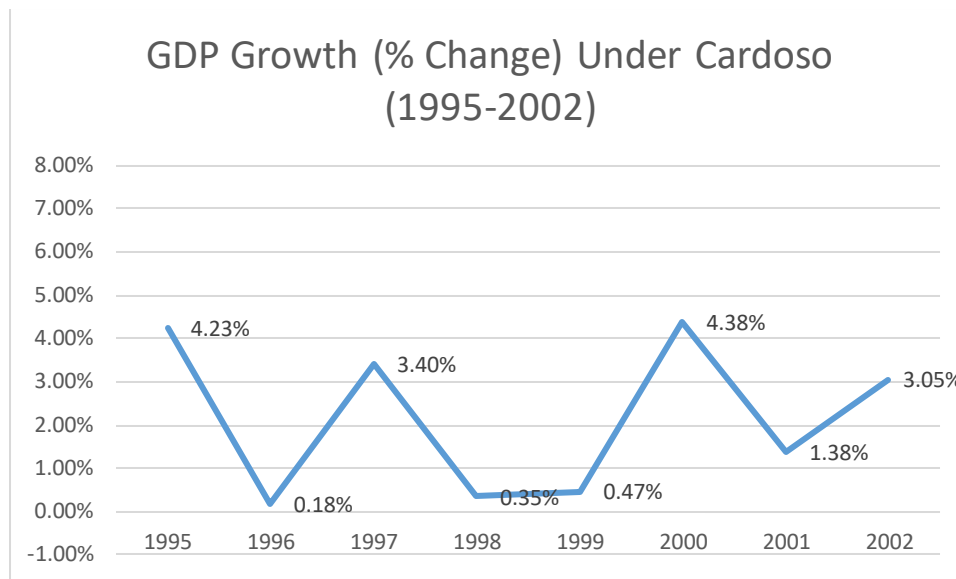


Figure 10. GDP Growth (% Change) Under Cardoso – Brazil (1995-2002). Own elaboration with data from World Economic Outlook (2019)

As such, the 2002 elections would come with a fragmentation of the capitalist class and some reconciliation between Labour Confederations.

2.2. Political Crisis and Re-Alignment of Social Groups: the 2002 election

While the presidential election of 1998 was a clear confirmation of the moment of political stability and a continuance of the incumbent Dominant Social Bloc, by 2002 the policies defended by Fernando Henrique Cardoso – and by his appointed successor José Serra – were no longer able to be a magnet for organized interests (or votes for that matter). The stable DSB that supported FHC – composed by a more docile fragment of labour and the full-fledged support of businesses – broke up in 2002.

The race was between six candidates, but only three managed to actually get some actual support from organized interest groups. Labour was divided between the candidacies of Ciro Gomes – who appointed FS's president Paulo Pereira da Silva (a.k.a. Paulinho da Força) as his running mate –, and Luís Inácio Lula da Silva – who had express support from the CUT since his first candidacy in 1989 (Rodrigues 2015). José Serra, FHC's successor had trouble gaining

any support from labour, as it became increasingly difficult for pro-government labour confederations to justify support for reforms that did not combat unemployment²³.

On the side of businesses, it was a three-horse race. The more liberal faction was captained by Jorge Gerdau and supported Serra, with the discourse that the continuity of labour reforms would eventually lead to growth. Ciro Gomes also managed to get some support from business leaders through his idea of combining flexible labour reforms with active industrial policies (Friedlander, Sanches & Camarotti 2002; Ruffo 2002).

However, the most interesting case is the Lula's courtship of business interests. His fourth presidential candidacy managed to get strong support from capitalists through two quite concrete mechanisms: The *Letter to the Brazilian People*, and the naming of industrialist José de Alencar as his vice-presidential candidate.

The letter was a conciliatory document that reassured capitalists that their property rights would not be under threat, and that a Workers' Party (PT) government would seek to govern *with* employers through a "broad national negotiation" (PT 2002, p. 2). This olive branch was an instrumental aspect in the construction of a new stable DSB.

Also, José de Alencar – one of the largest textile industrialists in the country, and influential in CNI politics – was quite an asset in consolidating the support of a national business class, calming the nerves of the ones that were more recalcitrant. The support of businesses for Lula's candidacy only grew after he went into the run-off against José Serra, but the capitalist class remained divided between the ones who were willing to accept higher salaries as a demand boost, and others who wanted to press on with diminishing unit labour costs.

Ciro Gomes and his running mate Paulinho da Força also declared their support to Lula's candidacy after they failed to reach the run-off. This consolidated the support of the FS to Lula, and this meant that the historical rivalry between the CUT and the FS was at a historical low.

²³ Paulo Pereira da Silva, historic leader of the FS criticized FHC for his excessive cuts and the fact that his policies led to a prolonged recession (Carta Capital 2014).

At that point, Lula had the support of the two largest peak confederations in the country, representing 85% of the country's organized labour (see Figure 6).

The *Letter* was also an important instrument in winning over the public opinion. The alarmist media coverage of the PT candidate did not stop but it was mitigated. The document – and Lula's television campaign – was highly focused on employment, considered a main issue in the country in the years 2002-2003 (see Figure 8). In the run-off against FHC's successor José Serra, the former metal worker and unionist won 60% of the vote and became Brazil's 35th president, inaugurating the *Developmentalist Coalition* composed by a fragmented capitalist class and unified labour confederations.

2.3. Lula's developmentalist policies: higher wages, employment, and contradictions

In 2002, Labour Confederations, although still different in their methods, decided to join forces and support a pro-labour candidate that could turn the situation of employment around. At the same time, the main business associations of the country decided to give the benefit of the doubt to the former trade unionist who promised to take tripartite negotiations to a new level and promote growth and employment. This was also made possible because of the decline of the absolute power of the ideology of labour flexibilization that dominated the debate during the 1990s (see Cardoso & Hamasaki 2014; Krein, Santos & Nunes 2011). Throughout his two tenures, Lula went through four labour ministers. All of those were connected to Labour Confederations.

One of the first symbolic actions of the Lula government was to archive the reform to the CLT attempted by Cardoso and stalled in the Senate. Via a requirement by Senator – and former trade unionist – Paulo Paim from the PT, the matter was removed from the debate (Senado Federal 2003). This action set the tone for the coming years, since the government would tend more towards the interests of labour, although the strong presence of businesses in the coalition

made the government vie more towards what was deemed the *possible reforms* (Cook 2007; Campos 2015). This development approximated the PT and the CUT to the methods of the FS, and made possible the aforementioned labour unity.

| Law/Year | Theme |
|--|---|
| <i>Decree 47796/2003</i> | <i>Creates the National Labour Forum (FNT)</i> |
| <i>PL 5483/01</i> | <i>Archiving of the PL 5483/01 that aimed to alter the CLT</i> |
| <i>Cancelling of the Law 9601/98/2003</i> | <i>Cancelled subsidies granted for fixed term hiring</i> |
| <i>Constitutional Amendment 45/2004</i> | <i>Broadens the competencies of the Labour Justice</i> |
| <i>Law 11.324/2006</i> | <i>Gives basic rights to domestic labour</i> |
| <i>Law 11.442/2007</i> | <i>Flexibilizes the contracts of transportation workers</i> |

Figure 11. Selected Labour Reforms During the Lula Administrations. Own elaboration based on Krein, Santos & Nunes (2011), Soares (2013), and Cardoso & Hamasaki (2014)

Some important macro-level statistics show a big difference between the two governments. First of all, the valuation of minimum wages above inflation. Lula wanted to create and pass into law an index that took into account inflation plus GDP growth. That provision was taken during his government, but its passage into law was stalled (Krein, Santos & Nunes 2011). In Brazil, it is hard to overstate how important minimum wages are for negotiations, since contractual wage negotiations of unionized sectors are largely affected by annual minimum wage hikes (Horn 2008).

| Year | Minimum Wage (Nominal BRL) | Nominal Increase | Inflation (INPC) | Real Increase |
|------|----------------------------|------------------|------------------|---------------|
| 2003 | R\$ 240.00 | 20.00% | 10.38% | 8.72% |
| 2004 | R\$ 260.00 | 8.33% | 6.13% | 2.08% |
| 2005 | R\$ 300.00 | 15.38% | 5.05% | 9.84% |
| 2006 | R\$ 350.00 | 16.67% | 2.81% | 13.48% |
| 2007 | R\$ 380.00 | 8.57% | 5.15% | 3.25% |
| 2008 | R\$ 415.00 | 9.21% | 6.48% | 2.56% |
| 2009 | R\$ 465.00 | 12.05% | 4.11% | 7.62% |
| 2010 | R\$ 510.00 | 9.68% | 6.46% | 3.02% |

Figure 12²⁴. *Wage Increases During the Lula Governments (2003-2010)*. Own elaboration with data from IBGE (2018) and DIEESE (2016).

As such, by hiking wages, Lula pleased unions who gained an implicit bargaining power. An interesting development was that informality – which was stagnant at around 60% of the labour force during the FHC tenure – fell during the 2003-2010 period, with unemployment also falling. The main argument given to explain this “paradox²⁵” of rising wages and lower unemployment is the increase in aggregate demand that came with a higher wage mass. This virtuous composition of political negotiation and a very favourable economic scenario, made the Lula years a rare moment of stability, even during the last days of his second tenure²⁶.

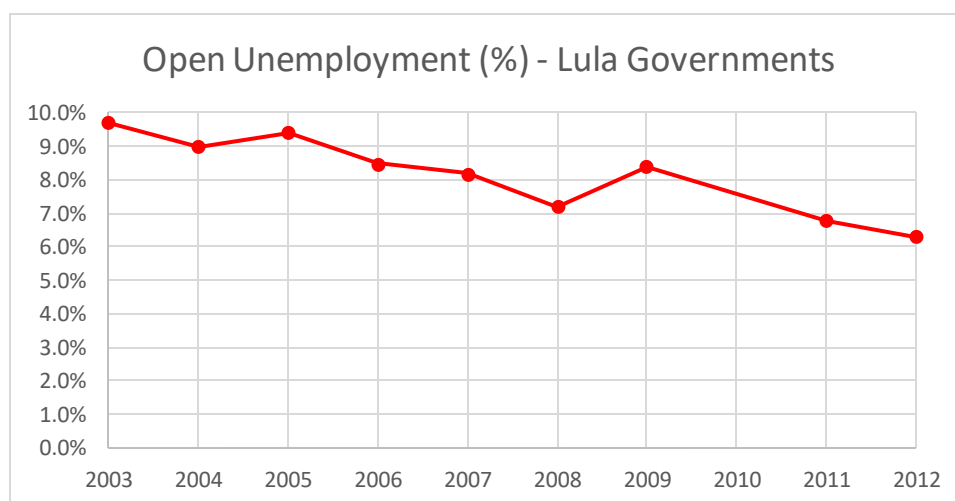


Figure 13. *Open Unemployment (as a percentage of the Economically Active Population) – Brazil (2003-2012)*. Own elaboration with data from IBGE (2018).

²⁴ Real increases during both tenures of Lula averaged 6.32%.

²⁵ Both orthodox economics and the more mainstream insider/outsider theory would predict that higher wages and stricter labour law enforcement would lead to a decline in employment. It should be noted, however, that there are papers pointing out to the scant and often times contradictory evidence about the correlation of lower wages and higher unemployment.

²⁶ In the CNT/MDA (2017) time series, Lula had, in August 2010, an approval rating of 77.5%.

Overall, Lula's tenures may be considered contradictory in terms of labour regulations (Krein, Santos & Nunes 2011), but this was a result of the composition of its social support. Lula had to negotiate possible reforms that would hold the active support of labour confederations, but retain the acquiescence of business owners. In a sense, what Lula did manage was to attain some silent victories. For once, the government managed to give basic rights to domestic employees who were usually informal, and increase the value of wages in the country.

Another development was the more militant role taken by the Labour Ministry. This was not an institutional change per se, but it can be seen in the data about the number of workers inspected, and the adoption of clearer metrics for the labour law oversight and enforcement, which somewhat combated the *de facto flexibility* that is so common in Brazil and Latin America in general (See Figure 14).



Figure 14. *Workers inspected about wage and work-hours (1990-2012).* Reprinted from Coslovsky, Pires & Bignami 2017).

What is noticeable from Lula's two tenures is a more 'balanced' approach in terms of labour regulations, wage coordination, and labour law enforcement. Since the PT governments were more broad-based than its predecessor, having a more active part of organized labour in

the heart of government, policies responded, which highlights also the flexibility of institutions, and the importance of politics.

That being said, however, it should be emphasized the superior power of businesses (Baccaro & Pontusson 2019) when it comes to political coalitions. Although some losses were imposed on capitalists during the Lula years, quantitative research shows that businesses still had a 60% success rate on regulations they lobbied for or against – down from 75% in the FHC years (Santos 2014, p. 62). The centre-left coalition captained by Lula and the Workers’ Party shows that a more unified labour force may prosper and seek to counteract some of the “most negative social effects of neoliberal reforms” (Bensusán 2013, p. 110). Overall, there is a certain consensus that the Lula years brought some gains to workers and to the situation of employment in the country (see Cardoso & Hamasaki 2014; Carvalho 2018). In the end, the presence of employers in the coalition may have watered down the reforms, but their acquiescence made the period one of political stability and moderately high growth²⁷.

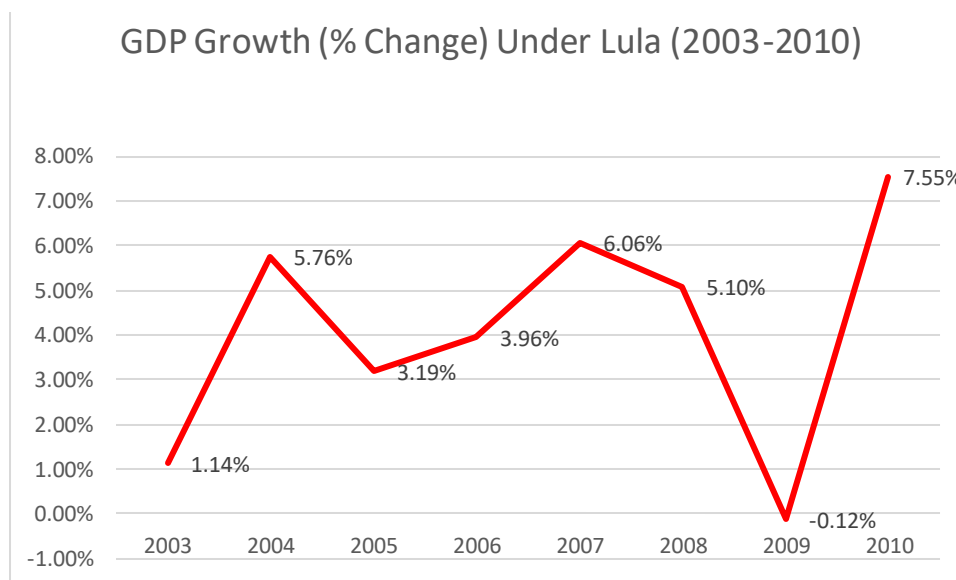


Figure 15. GDP Growth (% Change) Under Lula – Brazil (2003-2010). Own elaboration with data from World Economic Outlook (2019).

²⁷ In the period, The Economist (12/11/2009) wrote a piece entitled Brazil Takes Off. In the text, the liberal-oriented magazine sings Lula’s praises as a negotiator and claiming that “in some ways, Brazil outclasses the other BRICs”, and that the mix of political stability, democratic governance, and parsimonious social policies.

In sum, eight years of a more labour-friendly government did not preside over a major institutional overhaul, but policy changes were noticeable and important, changing the relationship between organized labour and capital (Bresser-Pereira 2009).

2.4. Transitioning between Cardoso and Lula

The changes in the social bloc composing the governments of Cardoso and Lula had a true impact in the way they conducted their policy-making, and also on their cabinet composition. This, in turn, made a difference for labour regulations, and it inaugurated a period where labour confederations were more unified, closer to power, and had a greater capacity to bargain. As such, the first coalition here analysed was a liberalizing coalition composed by a minority, yet significant fraction of labour and unified capital that managed to gain some ground in institutional changes, but not to alter significantly the Consolidated Labour Laws that continued to hover over industrial relations in the country. In the 2000s, there was a transit towards a coalition that, while keeping some of the same actors, had a more decisive and unified presence of labour confederations which provoked points of departure, and moderately shifted employment relations to a more protective character.

3. The Case of Mexico (from Zedillo to Calderón)

As mentioned before, the case of Mexico is an interesting point of comparison with Brazil because, although these countries have macroeconomic similarities between them and have a corporatist unionist culture dating from the 1930s, they usually drift apart from each other in terms of policy-making (see Figure 1).

Differently from the case of Brazil, however, the analysis starts with a government that had an important participation of labour in its supporting social bloc. That participation held back major reforms of the Mexican Federal Labour Law (LFT), and it led to a recovery from the crisis, after 1996, that saw a modest decrease in informal labour, and a more significant one of part-time jobs and unemployment.

The transition to the National Action Party (PAN) was less convoluted than expected, but the composition of the government changed. The party of Vicente Fox (2000-2006) and Felipe Calderón (2006-2012) did their best to grant some acquiescence from organized labour, but their inclination was much more overt towards the demands of businesses (Pérez 2014). In this respect, the transit in Mexico is from a government with a strong – yet conciliatory – labour fraction, to a government more overtly inclined to the interests of businesses. Overall, each *sexenio*²⁸ here described is characterized by a gradually shifting political situation between capital and labour. While Zedillo still had to maintain strong relationships with corporatist labour, his predecessors used the growing disunity of labour to create a more business-friendly social bloc.

3.1. *Staying the course: The Zedillo presidency (1994-2000)*

Ernesto Zedillo Ponce de León won the 1994 election with some distance from his main contender. Accruing 49% of the vote in a country that has no run-off elections, Zedillo had the

²⁸ Usual term to refer to a president's six-year term without the possibility of immediate re-election.

challenge of getting to Los Pinos in the middle of an economic crisis, and with his party, the PRI, grasping at straws to keep hold of a historical coalition.

Some developments, however, changed the way in which the organization – and as a result the country – functioned. Firstly, the ratification of NAFTA in 1993 started to impose some costs already in the Salinas (1988-1994) government. Also, the economic tsunami named the “Tequila Effect” was unleashed onto the Zedillo government in its very first days, after his predecessor adopted an overvalued exchange rate that was largely unsustainable.

After taking office, Zedillo adopted a floating exchange rate, which pushed Mexico into one of its deepest crisis. This, in turn, led to a re-alignment of forces that would give some sustentation to the Zedillo government, but the level of delicate compromise that had to be adopted led to very modest reforms in terms of labour regulations. Overall, the story in Mexico revolves around discussions on informal accords between unions and businesses brokered by governments, only culminating in actual institutional change in the very last years of the Calderón government.

3.1.1. The Institutional Revolutionary Party Leadership after Salinas

The Zedillo government inherited a social base that has accompanied the Institutional Revolutionary Party since its origins. The party is *officially* composed of three sectors: labour (represented by the labour confederations connected to the Labour Council), the peasantry, and the so-called ‘popular’ sector (composed of the petty bourgeoisie, teachers, public sector workers etc.). However, when it came to labour law reform debates in Mexico, these were discussed almost exclusively between the labour sector of the PRI, and business owners that had to influence the government from *outside* party ranks through business associations (most importantly through the Mexican Employers’ Confederation – COPARMEX) (Silva 2002).

Nonetheless, this age-old arrangement was starting to fray. First of all, the actions of the Salinas government created some rifts between the ‘official unionism’ – represented by mainly

by the Confederation of Mexican Workers (CTM), and by federations connected to the Labour Congress (CT)²⁹ – and the PRI. Historically non-militant and aligned to the party, these organizations usually managed to get enough concessions from political leaderships to legitimize their leadership to their bases and curb labour fragmentation. This was no longer the case. At the time Zedillo rises to power, discontent was brewing in the ranks of official unions. This occasionally led to dissident and more militant confederations being created, growing over time, and defying the CTM's dominance (see Figure 16)³⁰.

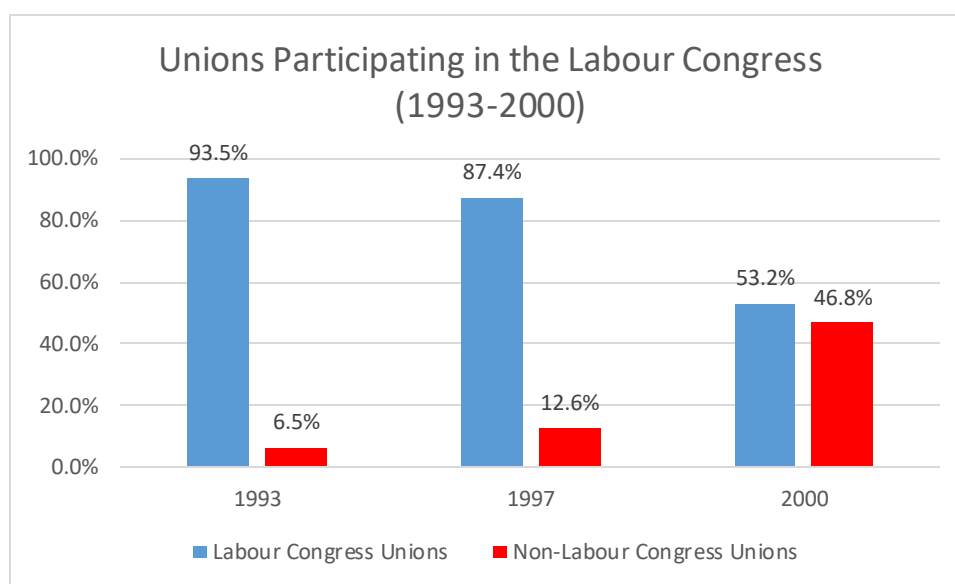


Figure 16. Percentage of Unionized Workers Associated or not to the Labour Congress (1993-2000). Elaborated with data from Aguilar (2004, p. 113)³¹.

As such, the power of the pro-government pragmatic unionism of the CT and the CTM was starting to be contested for the first time since the Mexican revolution. This made these organizations ask for protections and benefits for their affiliates even during a time of deep economic recession as a way of retaining their legitimacy, relying on the fact that they were a significant part of the party's legislative representation.

²⁹ In Mexico, the most important divide in labour are among outright corporatist unions that had a relationship to the PRI (under the umbrella of the Labour Congress), and the ones that are not connected and are outside of the Congress (Aguilar 2004).

³⁰ The most noteworthy development was the founding of the militant National Workers' Union (UNT).

³¹ The year 2000 marked the first time when independent associations had more affiliates than the CTM, however not more than the aggregated Labour Congress.

| Year | PRI MPs ³² | "Labour MPs ³³ " | CTM-Affiliated MPs |
|-----------|-----------------------|-----------------------------|-----------------------|
| 1991-1994 | 320 | 70 | 41 |
| 1994-1997 | 300 | 70 | 38 |
| 1997-2000 | 211 | 42 | 30 |
| 2000-2003 | 209 | 14 | 11 |
| 2003-2006 | 222 | 21 | 10 |
| 2006-2009 | 106 | 37 | 6 |

Figure 17. PRI Members of Parliament in Mexico by their labour and CTM affiliation. Own elaboration with data from Martínez (2009).

Although some reforms were made during the Salinas years, the debate around labour law in Mexico revolves – since 1991 – around a wholesale reform of the Federal Labour Law (LFT). Supported by the largest business associations in the country, most notably the Mexican Employers' Confederation, it seemed like the PRI was willing to embrace that reform and put an end to years of corporatist collaboration with official unions during the tenure of Salinas. The president backed down after strong resistance from the CTM (Pérez 2014).

This scenario was repeated with even more force in the beginning of Zedillo's tenure. The devaluation of the peso, and the political crisis of the first two years of his government forced the political leadership of the PRI to attenuate tensions with the corporatist labour actors in their coalition, and desist from any negotiation of a profound reform of the Federal Labour Law (Zapata 2006, p. 84). During his short presidential campaign³⁴, Zedillo attended the CTM's 3rd extraordinary assembly meeting where he affirmed his wish of being the "labour candidate of Mexico" (García & Guzmán 2009, p. 668).

Nonetheless, in a moment of deep economic recession, reforms were necessary, and Zedillo had also to hold some acquiescence from businesses to pull the country from the crisis. Without the political capacity to actively reform labour laws lest he would lose the bulk of his political

³² Out of 500 total seating Members of Parliament in the Mexican lower house.

³³ MPs directly affiliated to Labour Confederations. It is noticeable that this number decouples from CTM numbers in 2003, denoting that the monopoly of this Confederation fell over time.

³⁴ Zedillo took over the PRI candidacy after the tragic assassination of Luis Donaldo Colosio in March 23rd. The elections were held five months later on August 23rd, 1994.

support, Zedillo entered tripartite negotiations for a process of informal labour flexibilization, baptized as the “New Labour Culture”.

3.2. Few reforms, more flexibility: The New Labour Culture under Ernesto Zedillo (1994-2000)

Although the re-election of the PRI also represented a continuance of the corporatist relationships among the main labour confederation and the party, the turbulent political situation of Mexico made their support more necessary than ever, all the while alternative political leaderships were growing, and with them new proposals for labour reform³⁵.

Conversely, the strategy of the CTM was to enjoy its privileged position vis-à-vis the government, but aware of the acute economic crisis. In a document presented to the labour secretary (see García & Guzmán 2009, p. 677), their position was conciliatory, but firm: no changes in organizational aspects of unions, no flexibilization of dismissals, no changes to the Federal Labour Law, a negotiated pact to at least curb devaluation of salaries, and a policy of gradual hiring. In return, unions pertaining to the Labour Congress were willing to sit down with main business associations to negotiate the principles of the New Labour Culture. In its final text, the Culture was summarized as a “continuous process of harmonization of labour relations aiming to secure the *permanence and development of employment sources*” (STPS 1996).

The text, negotiated throughout 1995, was signed in August 1996 by the Labour Congress, business associations, and Ernesto Zedillo himself. In a sense, the document represented well the correlation of forces present at the time, and the political brokerage espoused by the sitting president. Businesses managed to get concessions for their demands of coupling payments with productivity gains, and increase worker mobility between regions and sectors.

³⁵ For a systematic view of both labour and business-friendly reforms see Cook (2007).

With independent unions excluded, the Labour Congress set their priorities: businesses would keep employed workers and gradually create new vacancies, with collective contracts being negotiated away from more militant confederations. To the credit of official unionism, the pacts negotiated during the period did lead to a diminishing of unemployment and part-time employment (Robles & Salinas 2004), but wages fell short from reaching their pre-crisis values. This kind of negotiation tactics is quite closely related to the ones employed by Força Sindical in Brazil.

To be sure, the presence of labour confederations in the Zedillo social bloc meant that the brunt of the crisis was borne more by those who were not in unionized positions. After the worse of the crisis was behind Mexico in 1996, most of the people employed kept their jobs, and formal job creation reached its historical apex with 819,950 for the year (Martínez 2018).

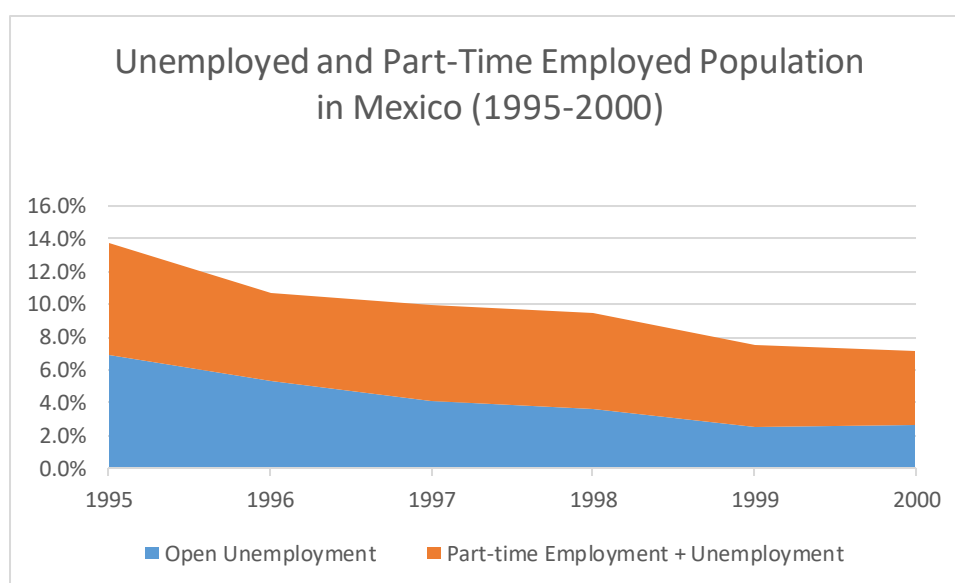


Figure 18. *Unemployed and Part-time Employed Population in Mexico (1995-2000), as a % of the Economically Active Population*). Own elaboration with data from INEGI (2018)³⁶.

The government of Zedillo was in a tough position to pursue further institutional flexibilization, but the debate was always present, and was thus settled in tripartite agreements.

³⁶ Due to the lax methodology of unemployment statistics in Mexico, it is important to take into account also people who have worked for 15 hours or less in the week of reference (nominated here as part-time employed) (see Nápoles & Díaz 2011).

This worked well in the maximum moment of economic crisis, but three developments undermined the capacity of maintaining the stability of the coalition.

Firstly, labour's fragmentation ensued, especially with the changes in leadership of the CTM³⁷, and the growth independent unions. Secondly, the National Action Party grew in seats, and businesses started to grow restless in being in a coalition with the PRI. Finally, after presiding over a quite robust economic recovery, prospects for the future were unsure, and a downturn was starting to mount (see Figure 19).

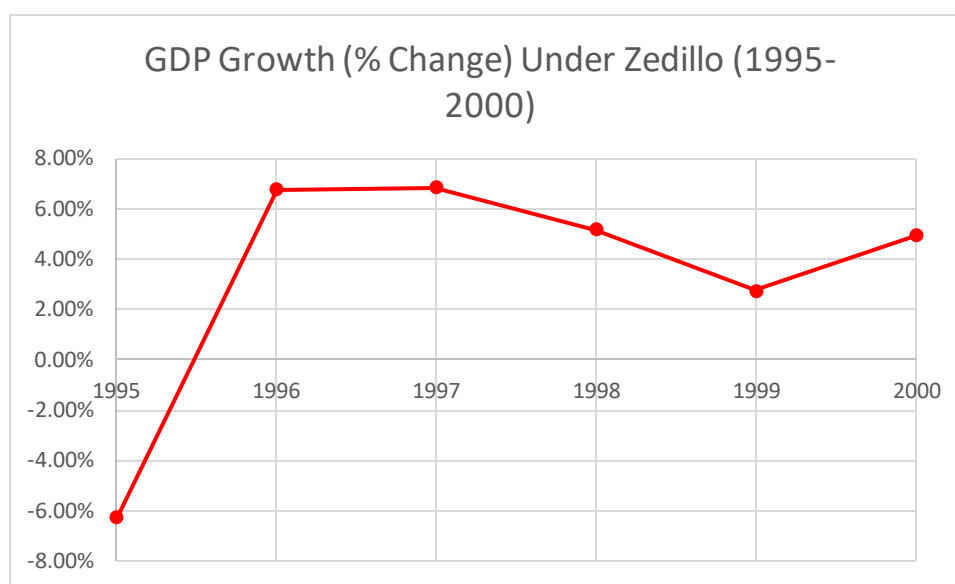


Figure 19. GDP Growth (% Change) Under Zedillo – Mexico (1995-2000). Own elaboration with data from World Economic Outlook (2019).

This situation led to a growing distrust about the future of the economy, and hurt the popularity of the PRI. Survey data from the year 2000 shows that economic issues – such as poverty, employment instability, low wages, and inflation – were considered as the most important problems in the country by around 45% of the population (Latinobarómetro 2019). With the highest inflation since the crisis, a deceleration of economic growth, and a coalition that was starting to fray, the PRI would have difficulties in the 2000 election.

³⁷ Fidel Velásquez, one of the Confederation's founders in 1936, stayed as president of the institution from 1950 until his death in 1997.

3.3. *The Mexican “transition” and PRI’s electoral defeat*

The presidential election in 2000 was one of the most fragmented in Mexico’s history, and that was reflected in the support given to each candidate by organized groups, and in their proposals for Mexico’s economy.

Already in 1999, the CTM decided to support and present proposals to PRI’s candidate Francisco Labastida Ochoa (Velasco 1999). Meanwhile, the National Labour union and other more militant confederations decided to support once again the candidacy of the Democratic Revolutionary Party (PRD) and its candidate Cuauhtémoc Cárdenas, thus forming a link between the party and the confederation that would carry on for the forthcoming election as well (Bensusán & Middlebrook 2013). Businesses however, sided with National Action Party (PAN) candidate Vicente Fox.

With 45.52% of the vote, the PAN candidate won against the 36.11% of the PRI candidate, and 16.62% of the centre-left PRD (IFE 2012). Fox won with some support from outsiders. According to Bensusán and Middlebrook (2013, p. 76-77), non-unionized households voted more for Fox (38.9%), than for Labastida (29.7%)³⁸.

From July until the taking of office in December 1st, 2000, Vicente Fox naturally gained more support. If perhaps the sole support from business associations would make for an ungovernable situation, the adherence or acquiescence of labour could make for a politically stable tenure. Having lost space in the legislative (see Figure 16), the CTM decided to negotiate – now from the outside – with a non-PRI president (García & Guzmán 2009).

The change in leadership did not lead to a profound political crisis, since the transition was negotiated with central political actors. What *did* change was the position of these actors vis-à-vis the political leadership. Business associations were now *in* government and could push for further flexibilization. Conversely, more militant factions grew overtime, while the CTM and

³⁸ This trend also held for the competitive 2006 elections when Felipe Calderón had 41.5% of the votes in non-unionized households.

the Confederations composing the Labour Congress disintegrated, increasing the fragmentation of labour. This process would eventually reach its apex during the government of Felipe Calderón.

3.4. The PAN governments from Fox to Calderón (2000-2012): consolidation, crisis, and change

Declaredly Christian Democrat, the National Action Party never got too close to winning the presidency until it did in the year 2000 with the election of Vicente Fox Quesada (Edmonds-Poli & Shirk 2009). After 70 years of PRI rule, expectations were high for a complete breakup of corporatist relations, but the rupture was a lot smoother. The different correlation of forces brought about a rather exclusive Dominant Social Bloc, that formally included only business actors, with the CTM continuously negotiating its punctual participation. The result was a government where de facto flexibility increased, while institutions remained in place during the Fox tenure. However, the gradual fragmentation of labour would eventually lead to such a favourable scenario for businesses during the government of Calderón, that he would preside over an actual institutional reform to the federal labour law in the last year of his government in 2012.

3.4.1. The Government of Vicente Fox (2000-2006)

Already during the interval from getting elected to taking office, Fox affirmed that the precepts of the New Labour Culture should be kept and deepened. To do so, he named one of the main brokers of the Culture and former COPARMEX president Carlos Abascal as Labour Secretary, and had a long talk with CTM's president Rodríguez Alcaine. From the very beginning, it became clear that the CTM and the official unions that were historically connected the PRI, were ready to negotiate with the new government. These negotiations led to a document dubbed *Project Abascal* (Garavito 2002).

| Theme | Position |
|-----------------------------|---|
| <i>Contracts</i> | <i>Creates Seasonal and Apprenticeship modes of hiring, and increases probation periods</i> |
| <i>Working Hours</i> | <i>Hours are negotiated freely between workers and employers, but must remain below weekly legal limit</i> |
| <i>Overtime</i> | <i>Substitutes overtime pay with “comp time” – similar to the Brazilian ‘hours bank’</i> |
| <i>Minimum Wage</i> | <i>No change</i> |

Figure 20. Summary of the Project Abascal. Own Elaboration based on Cook (2007) and Garavito (2002).

What was synthesized in the final text of the Project was a clear indication of the correlation of forces at the time. On the one hand, employers pushed for free negotiation of conditions of labour, undermining what is legislated on Article 123 of the Constitution, and on the Federal Labour Law, which, taking into account the superior power of employers, stipulate rigid rules for negotiations. On the other, a dwindling fraction of corporatist, non-militant unions decided to cave in exchange for keeping certain guarantees for their internal functioning (Pérez 2014).

This brokerage is also a good representation of the kind of leadership exerted by Fox during this first government of “alternation”. The major problem with this was that the unions affiliated to the Labour Congress were never an enthusiastic part of the coalition, and certain particularities of Mexican politics made a difference, which barred the Project Abascal from becoming an actual law.

The midterm elections of July 2003 brought about a growth in the number of MPs connected to labour confederations (see Figure 17), and the PAN lost its majority in the house. The result was a disastrous 151 MPs out of 500 for the PAN, and a marriage of convenience

between the Labour Congress and the PRI (with 222 MPs), and the National Workers Union (UNT) and the PRD (with 97 MPs) to oppose the Abascal Project³⁹ (Proceso, May 15th 2015; Pérez 2014). It did not help the proposal's cause that it was denounced by Human Rights Watch for violating freedom of association rights in 2005 (see Vivanco & Pier 2005).

This momentary – yet momentous – alignment of labour confederations against institutional labour reforms barred them from passing, and the initial bet of the Fox government on negotiated reform and consensus did not pay in the long run. With the political moment unfavourable for institutional changes, the Labour Secretary instead adopted a posture of encouraging more *de facto flexibility*, diminishing the number of labour inspectors contracted to the institution, and the number of sanctions distributed. During this period, the Department of Labour changed its orientation from a coercive body to a self-declared “consulting authority, and an ally to the factors of production” (Bensusán 2006, p. 354-355).

One palpable development during the Fox government was the increase of temporary workers. Although Mexican legislation favours permanent contracts – since, theoretically, temporary workers can only be hired through written justification – oversight is lax, and it became more flexible during the Fox government (Fujii 2008).

³⁹ It should be noted that the CT and the CTM positions shifted. In the May 1st celebrations of 2003, this non-militant fraction of labour – as opposed to the UNT – were lukewarmly supportive of Project Abascal. This changes after the elections and some amendments to the bill in Congress that changed matters of worker organization (Piña & Ruiz 2006; Pérez 2014).

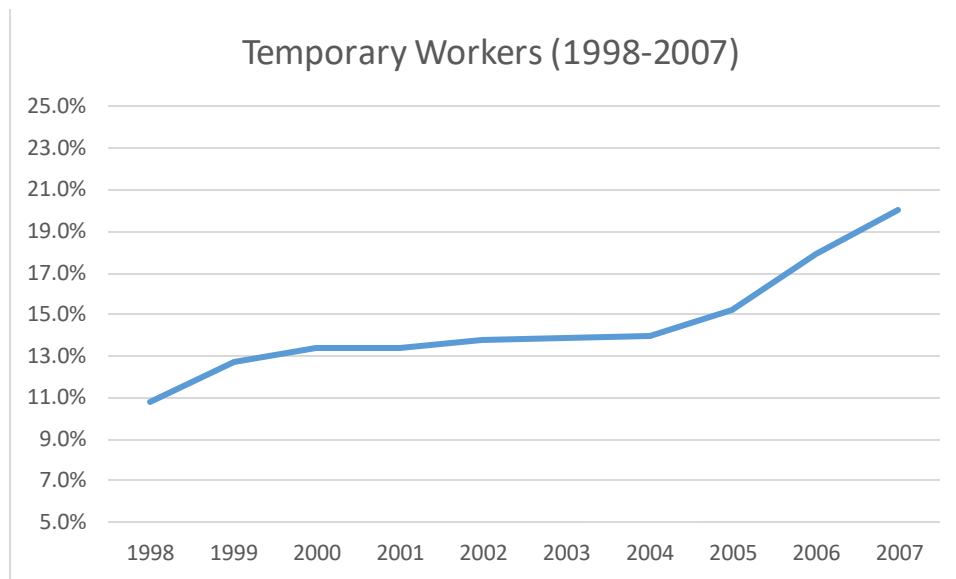


Figure 21. Temporary Workers in Mexico (as a % of total workers affiliated to the Mexican Institute of Social Security). Based on calculations from Fujii (2008).

With the end of his tenure fast approaching, and having managed to keep salary re-adjustments just above inflation throughout (see Zuñiga 2006), Fox had lost the timing of promoting an institutional change in labour laws, despite having created some channels of dialogue with the ever-weaker corporatist confederations. Keeping business associations to the side of the PAN, Fox would legate some sort of a social base to his successor, but those would have to be renegotiated after the Party lost much of its luster.

3.4.2. The Government of Felipe Calderón (2006-2012): the *sexenio* of the reform

Although the PAN candidate did win the election with the support of business associations, he did so with a mere 35.91% of the vote, against 35.29% of the centre-left Andrés Manuel López Obrador. The slim margin, has something to do with the disillusionment that came after six years of the PAN with slow growth, increasing unemployment and part-time employment⁴⁰, made for a race where many voters on the lower end of the electorate were vying towards the more leftist option of López Obrador.

⁴⁰ Although this were main talking points in Calderón's campaign, development on that end lagged behind during his tenure (see Figure 22).

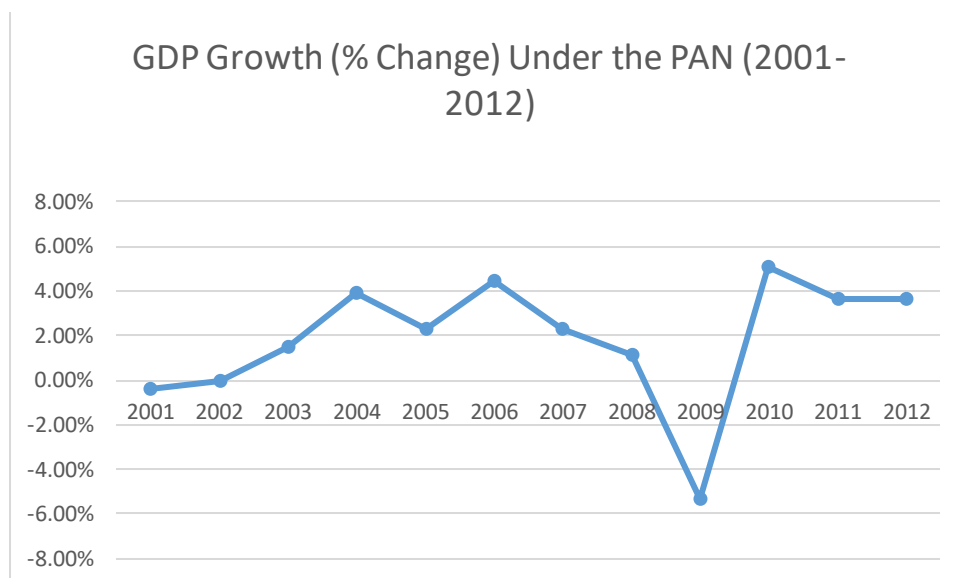
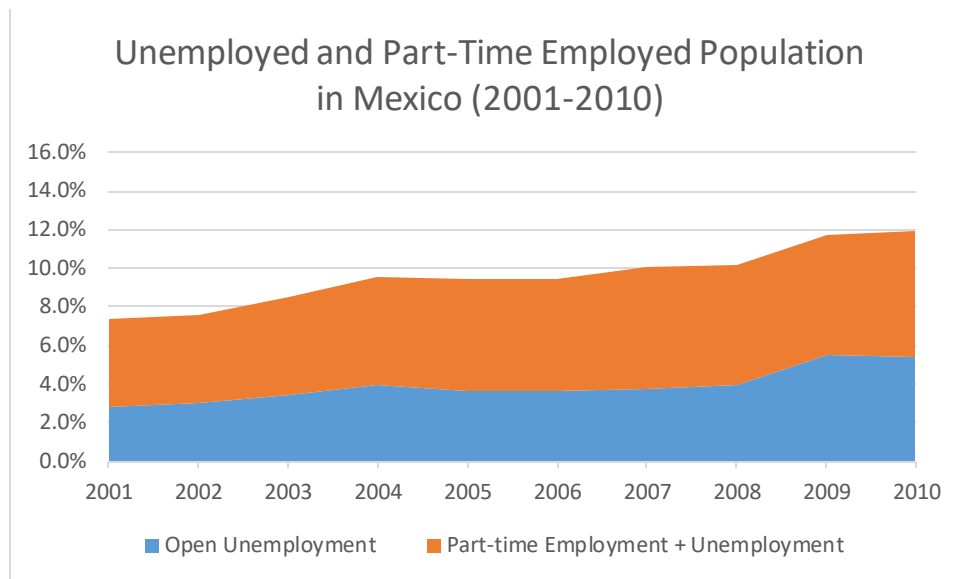


Figure 22. Unemployed and Part-time Employed Population in Mexico (2001-2010), as a % of the Economically Active Population. Own elaboration with data from INEGI (2018)⁴¹.

Figure 23. GDP Growth (% Change) Under the PAN – Mexico (2001-2012). Own elaboration with data from World Economic Outlook (2019).

Calderón had yet another problem. The rise of the PRD as the second political force in the country meant that the more militant fraction of labour and the UNT were now more empowered than ever, pushing the CTM to an existential crisis right after the elections. This could be a possible explanation for why the Confederation received Calderón in their

⁴¹ Due to the lax methodology of unemployment statistics in Mexico, it is important to take into account also people who have worked for 15 hours or less in the week of reference (nominated here as part-time employed) (see Nápoles & Díaz 2011).

headquarters, where the leader exulted the institution as a prime example of the “new unionism” so needed by the nation (Piña & Palacios 2009, pp. 108-109). While this was happening, the UNT denounced Calderón for electoral fraud, putting an end to the short-lived cooperation between the two fractions of Mexican labour. This quick and acute political crisis yielded a different correlation of power, and a new coalition would have to be formed during the president’s term.

Throughout his tenure, Calderón sought to build bridges between his leadership and the PRI. His strategy was to succeed where his predecessor had failed by building both a legislative majority for an institutional change, and a channel for dialogue with the less militant fraction of labour, which still held around half of the total number of formal workers under its umbrella. This will for labour peace was indicated in his National Development Plan (Mexican Presidency 2007).

Other than continuing with the trend towards de facto flexibility, and struggling to fulfil his slogan of “the six years of employment”⁴², Calderón worked firstly more on budgetary, and social security matters. His bet was that healthy government finances, and keeping labour costs low through wage stagnation⁴³ would be enough to grow and bolster employment, leaving efforts for institutionally modifying labour laws for after the midterm elections.

Going in the same direction, but deepening the Abascal Project (see Figure 24), the PAN begun negotiating an institutional labour reform. Although not without hiccups, the PRI – and official labour – agreed with the proposal after withdrawing their own from debate in March 2011 (Orozco & Magallón 2013). Calderón defended his reform passionately, claiming that it would lead to the creation of millions of formal jobs.

⁴² Although there was some creation of formal jobs during his tenure (many of them temporary), it still lagged behind meaning that only 4 in 10 new workers in the Economically Active Population got a formal employment (Valdivia 2013).

⁴³ Accumulated real wage increase during Calderón’s tenure was 1.64% (see Valdivia 2013, p. 94).

| Theme | Position |
|---------------------------------|--|
| <i>Contracts</i> | <i>Increases probation to maximum 7 months, flexibilizes temporary work, and creates apprenticeship contracts</i> |
| <i>Firing Costs</i> | <i>Limits the number of wages to be paid by employers during judicial claims after unjustified firing to one year</i> |
| <i>Outsourcing</i> | <i>Legalizes outsourcing indiscriminately – holds responsible contracting firms for overlooking labour rights in outsourcing firms</i> |
| <i>Payment and hours</i> | <i>Hourly negotiated wage, with working hours not exceeding the weekly limit.</i> |

Figure 24. Summary of Calderón's labour reform. Own Elaboration based on the Federation's Official Records (2012).

From all governments analysed here, it can be said that the Calderón tenure was the most consequential for employment relations, since he managed to change provisions contained in the protective Federal Labour Laws. Although the bill altered points that were under discussion since the *sexenio* of Miguel de la Madrid (1982-1988), the political conditions were never there before. If we looked only at businesses, we would not be able to pinpoint what changed, since the COPARMEX and other business associations were always enthusiastically supportive of the PAN. What *did* change was the gradual and steady process of labour fragmentation, which reached its absolute apex during the government of Calderón.

3.5. From Corporatist Pact to Labour Fragmentation

In the inverse direction as observed in Brazil, Mexico transited from a coalition that had an important component of labour which, although less militant, had a virtual monopoly on

labour representation, and thus managed to stall flexible reforms and push to a post-crisis recovery that precluded mass dismissals (Cook 2007). In the 2000s, however, businesses were organized in a unified voice with the governments of the National Action Party, while the process of labour fragmentation was in full gear.

The decay in membership of official unionism and the Labour Congress, and the fact that their partner party was finally out of power put them in a defensive position. While these actors could have composed a unified front to oppose the new incumbents, they preferred to join the new government in favour of flexibilization, and to mark a clear difference with their opposing confederations. The combination of a unified business, and a divided labour sector amounted eventually to the conditions allowing for actual institutional change in the last days of the Calderón government.

Concluding Remarks

The debate over labour reforms in Latin America has a long history. If on the one hand their labour laws date back to the 1930s-40s and back to the time where the role of the state in the economy ran much deeper, these countries went through a large-scale economic opening in the 1990s, leading to demands of flexibilization and change.

However, the basic and most important institutions of labour regulations in these nations remained in place for at least the second decade of the current millennium, and throughout major governmental changes and political regimes, which did not mean that the lives of workers remained the same, or that their stability on job and bargaining power was the same as during the time where these protective legislations were passed into law. Instead, the experiences of Latin American countries are mixed (Cook 2007), and so were the correlation of forces between capital and labour, and the political brokerage present in their cases.

The idea of this thesis was not to claim that institutional constraints reign supreme, nor that they are unimportant to labour relations. Instead, I have attempted to explore the political circumstances and the balance of power between capital and labour that allowed for either incremental institutional change, or de facto flexibilization processes, which, as seen above, are much more common in the region than wholesale institutional overhaul.

In many respects, the case of Brazil is much more clear-cut than the one of Mexico. The change in political brokerage was clear, and the unity/disunity of labour confederations was clear during the periods studied. That is to say alliances did not shift much once they were established, and stable Social Blocs remained in place during each political leadership. Also, the results were clear: differences between social blocs did lead to some traceable tweaking of

labour laws, although the main provisions of the Consolidated Labour Laws promulgated by Getúlio Vargas in 1943 remained in place⁴⁴.

Mexico drifted apart from Brazil, but the story of social blocs is more convoluted. Common perceptions claim that the PRI and the PAN are not all that different, and that there was more continuity than change from Zedillo to Fox. If one looks solely at the matter of bills passed on the matter of labour regulations, that is certainly right, but data on labour shows otherwise. The PAN governments could do what the PRI could not: overtly support businesses to the detriment of an increasingly fragmented organized labour, and flexibilize industrial relations diminishing unit labour costs. Similar to Brazil, Mexico had multiple peak confederations, clearly divided into more militant and more conciliatory. The main difference resided on the power they held, and their party allegiances. In the government of Ernesto Zedillo, not only did the pragmatic CTM still monopolize organized labour, but the Confederation had historical and organic relationships with the incumbent's party. The increasing fragmentation of labour, however, finally led to the perfect storm that provided Felipe Calderón with the opportunity of institutionally reforming Mexican labour laws at the same time Brazil was governed by a labour-friendly government for the third time.

The case of Mexico differs from the Brazilian case for the direction of its transit, which was hinted at in the graph showing the nations' evolution in the Economic Freedom Index (Figure 1). Both countries were suffering external pressures to flexibilize their labour regulations during the 90s and the 2000s, and both did so to different extents. However, the composition of political forces differed in these two nations, with the fragmentation of their organized labour and the composition of social blocs drifting apart from each other.

⁴⁴ Rights of assembly, minimum wage setting, levels of government intervention, union rights, and the fact that legislation was above what was negotiated was kept in place during the entire period for Brazil, and until the very last *month* of Calderón in México (see Visser 2016; Cook 2007).

This thesis attempted to be an exploration of the importance of politics and power on the matter of labour regulations, and, although it is by no means an exhaustive work, it points to some potential for the study of the conditions of policy-change in peripheral nations. It seems that, even when there is no major institutional change, Social Blocs that have a prominent presence of businesses will trend towards changes, no matter how institutionally minor, to keep labour costs down. Rather than quasi-perennial institutional constraints, the story of industrial relations in these two massive Latin American countries are permeated by political struggles that influence the direction towards which they drift, and as such it would pay to work towards institutional frameworks that took these struggles more seriously.

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