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**THE POLITICS OF LABOR LAW REFORM:
COMPARATIVE PERSPECTIVES ON THE MEXICAN CASE**

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Introduction¹

Most countries of Latin America have revised their labor laws in the last fifteen years. Many of these changes were efforts to align countries' labor laws with economic reforms undertaken during the same period. Legal and regulatory changes have tried to “flexibilize” labor markets in order to increase productivity, competitiveness, and employment. The notable exception in this wave of labor reforms has been Mexico. A country that opened its economy over a decade ago and joined the North American Free Trade Agreement, Mexico retains some of the most “rigid” labor legislation in the region (Lora and Pagés 1997).² The subject of labor law revision has emerged periodically in Mexico, but has always been postponed.

In recent years the topic of labor law revision has re-emerged in Mexico, this time accompanied by more extensive public debate. The issue is no longer dominated by employer demands for greater flexibility. Serious labor reform proposals by opposition parties have contributed to the debate. These seek to eliminate the corporatist vestiges of the Mexican industrial relations system and to democratize unions and labor relations. In a region marked by sharp conflict and even violence over the labor reform question, the debate in Mexico so far is also proceeding on a more consensual basis than in other countries.

This paper analyzes the politics of labor reform thus far in Mexico —its timing, process, and content— and compares the Mexican case with labor reform politics elsewhere in Latin America. Mexico's experience with labor law reform, while still new, has been distinctive in several respects from that of its neighbors, even though these countries are responding to similar pressures. This paper will examine what these differences might mean for the prospects of labor reform in Mexico.

The Timing and Process of Labor Reform in Latin America

The timing of labor law reform shapes in part the character of the changes. Although demands for “flexibility” have driven much labor law reform in recent years, changes in labor law have also moved in other, sometimes contradictory directions (Bronstein 1995, 1997). While neoliberal economic reforms undertaken by governments throughout the region have been primarily responsible for changes toward labor flexibility, re-democratization in the 1970s and 1980s also had an influence. Many of the countries that experienced authoritarian rule in the 1960s and 1970s restored collective rights that had been suppressed under the military in a first “round” of labor reform. The content of the reforms reflected democratic concerns, such as restoring the right to organize, strike, and bargain; and freedom of association. Often this meant a return to legislation in place prior to military rule. This was the case of Argentina, Brazil,

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²Mexico's progressive worker legislation dates from the 1917 Mexican Constitution and the 1931 Federal Labor Law and served as a model throughout Latin America and for the International Labour Organization, founded in 1919.

Uruguay, Paraguay, and to some extent, Chile. In Brazil (1988) and Paraguay (1992) the restoration of collective rights was embedded in new constitutions.

This restoration of collective labor rights with redemocratization was followed by a round of more flexible labor law changes in countries pursuing market economic reforms during the 1990s. This was the case with Peru, Ecuador, Colombia, and Argentina under Menem. Contemporary Brazil, Venezuela, and Bolivia are facing these reform pressures now.

Chile presents a different situation. Chile overhauled its labor legislation and its economy under the military regime. Recent changes in labor law under a democratic Chile have attempted to restore some balance to a system that had gutted union power. Yet many of the characteristics of the industrial relations system established under the military regime remain in place today.

Labor law change in Latin America is not only tied to economic reforms and to democratization, but also to institutional reform. Reforms of the state, fiscal reforms, and reforms of legislative and judicial systems also have an impact on the timing, process, and outcomes of labor reforms.

Labor law changes timed with either democratization or market economic reforms fail to define the entire content or success of labor reform. Unions in state industries or import-substitution sectors, sectors of domestic capital, state employees are among the varied groups that benefited from legislation forged under economic models of import-substitution or populist-authoritarian regimes. They are typically the groups that most strongly oppose changes in labor legislation. Historic alliances between political parties and unions may also present obstacles to labor reform.

Lora and Pagés (1997) note that the timing of labor reforms in Latin America tends to lag behind that of other economic reforms, and that in most cases labor changes, unlike economic stabilization policies, occur gradually and not by “shock.” The chief reason for this is the lack of public support for labor reforms.³ The process can even be violent: in Panama 500 people were injured in protests against the labor code reform in 1995, and in recent weeks death threats were issued against Argentine legislators scheduled to vote on a new labor code.

The method of implementation of labor reform reflects these difficulties. The wholesale replacement of labor codes has been rare. New labor codes were passed in only a few countries, notably Venezuela (1990-91), Chile (1994), and Paraguay (1993-94). However, the Venezuelan labor code consisted of an updating and strengthening of the earlier social-protectionist orientation of the law and not a fundamental change in its basic underpinnings. The Chilean and Paraguayan labor codes were part of those countries’ democratization processes. In the Chilean case the new labor code incorporated individual pieces of labor legislation passed in the early 1990s. Brazil’s 1988 constitution dealt with new labor provisions, but the labor code dating from 1943 does not yet reflect all of the changes made in the constitution.

³Lora and Pagés (1997) discuss several theories as to why the public in Latin America is not more supportive – ranging from lack of information to a lack of representation by the potential winners, informal sector workers and the unemployed.

The most common means of implementing labor reforms has been through individual pieces of legislation, amendments to existing legislation, temporary “emergency” measures, and decrees. Brazilian president Fernando Henrique Cardoso has resorted often to the use of “medidas provisórias,” a form of executive decree issued in cases of “urgency” that loses force if not converted into law in thirty days. Argentine Presidents Alfonsín and Menem made abundant use of decrees to pass unpopular reforms. Potentially conflictive reforms were often implemented in ways that circumvented public examination and frustrated opposition.

The kinds of reforms often passed under these conditions include temporary employment contracts that feature lower labor costs and easier hiring and dismissal terms and easing of restrictions on overtime and workweek scheduling. These kinds of measures have often passed with little effective opposition and few opportunities for extended public debate, consultation, or negotiation with affected parties. More thorough labor code or constitutional reform, on the other hand, requires greater consensus, and in the case of constitutional changes, more stringent requirements for passage. Consequently, they are capable of generating greater controversy and provoking strong forms of opposition.

Only in some countries have unions been brought in to discuss the substance of labor reforms. Instead of influencing legislation at the design stage, strong labor movements have been more successful at blocking the implementation of legislation or at securing consultation after reforms have been announced. In these cases labor’s importance as a political force during elections has often been a deciding factor. Perhaps the clearest example of this is Argentina, where the Peronist CGT finally negotiated the new labor code with the government against the opposition of employers, radical sectors of the labor movement, and the IMF. This explains why, even in the face of strong pressure by the international financial community and employer groups, domestic political considerations may still weigh more heavily in determining the outlines and fate of labor law reform.

Models of Labor Regulation

This section outlines three different models of labor regulation in order to highlight differences in policies and underlying assumptions. In practice countries often adopt policies associated with different models, resulting in a contradictory or hybrid body of labor regulation, rather than assume a wholesale package of consistent elements. Nonetheless, public debates over labor law reform often reveal fundamental differences between reform models in basic assumptions and goals about how workers, unions, employers, and governments should interact. The following presentation is intended to facilitate understanding of these assumptions and goals as well as comparison among models.

The Social Protection Model. This is the traditional model of labor legislation in Latin America. Its basic outlines remain in force in many countries today. Dating from the period of import-substitution industrialization, the premise of this model is that a strong state must act as mediator between labor and capital to ensure harmonious relations, and that the state must protect individual workers through legislation that, among other things, secures a worker’s right of ownership over a job (via high barriers to dismissal). This is the concept of “*estabilidad laboral*” that is the premise of employment law throughout the region. In the area of collective labor relations, the social protection model assumes the need for state regulation and control of unions and intervention in their affairs, although in some countries strong inducements to unions

such as monopoly of representation are also present (Ermida Uriarte 1995; Collier and Collier 1979).⁴

Contemporary objections to this model of labor regulation include charges that it is too rigid, given the level of detail and degree of social protection found in the laws; and that it is too authoritarian, given the high degree of state intervention in the lives of unions that has often impeded union democracy. Hence employers and governments that support market economic reforms are most in favor of changing this model. Unions and some political parties that oppose state intervention in union affairs also support ridding the model of its more coercive elements, yet they are less likely to favor significant decreases in levels and forms of social protection. Other concerns involve the claim that rigid laws encourage the informal economy, and that, due to lack of effective enforcement and employer avoidance, many provisions in the legislation are not followed or are simply outdated.

Despite a strong trend in the opposite direction, some countries have raised levels of protection using the argument that workers need even stronger protections in the wake of economic crises that have rendered them vulnerable to job losses or declining income. Rather than represent a shift in philosophy, these reforms are aimed at improving and updating features of the traditional model. Others, such as some Central American countries, have increased protections to match international labor standards.

The Labor Flexibility Model. There is no single “model” of labor flexibility. Elements of flexibilization have been implemented in many countries in recent years, fueled by the belief that the removal of legal “rigidities” will improve productivity and competitiveness and expand formal employment (Lora and Pagés, Márquez, ed., and Edwards and Lustig, eds.). Some see the push toward flexibility as a long-overdue move in Latin American labor legislation to making the balance of power between workers and employers more equal by shifting it toward employers (Córdova 1996).

Features of flexibility include lessening legal restrictions on employers by permitting employers to determine conditions of employment or to negotiate these with workers’ representatives. Examples include lifting legal restrictions on working hours and other working conditions, permitting hourly pay in place of daily pay (thus making part-time employment possible), facilitating hiring and dismissals by lowering the costs associated with employment (via severance payments, pre-notification of dismissal, reducing “labor costs” through lower employment taxes) and by permitting fixed-term employment contracts, allowing merit-based promotion and pay-for-knowledge instead of or in addition to seniority-based promotion, and establishing special conditions and exceptions for certain categories of employers and workers, such as small and medium-sized enterprises and rural workers. A popular policy recommendation by promoters of labor flexibility is decentralizing collective bargaining, ostensibly to permit work practices tailored to the specific workplace.

⁴Examples of provisions associated with this model include high severance payments in the event of employment termination; employer tax contributions to social programs, including worker housing; restrictions on overtime and on internal and external job mobility; promotion by seniority; employment contracts of indefinite duration; government registration and oversight of union formation; representational monopolies, among others.

Most trade unions have strongly opposed these measures because they represent rollbacks of previous conquests in the law, and because some of them are not-so-veiled attempts to weaken unions. The language of flexibility is one that privileges costs over rights. In this model the concept of worker rights is limited to the right to employment, which is obtained by easing pressures and constraints on employers to hire, and the right to enforcement of the law, which is to be achieved via improving the technical capacity and inspection budget of the government (or by privatization of compliance and enforcement functions through outside agency contracts). Workers' rights are also often seen as the right to choose whether or not to belong to a union, and thus freedom from abuse by unions. This model's language of labor rights is one of rights without the power to defend them, and therefore empty of content. Unlike the social protection model, the flexibility model does not acknowledge the existence of conflict and the power imbalance between workers and employers. Consequently, neither strong unions nor a strong state are necessary to provide counterweights to capital.

This approach is favored by international financial agencies, in particular the International Monetary Fund, the World Bank, and the Interamerican Development Bank, by employers, and by neoliberal reform governments. There is little empirical evidence, however, indicating that flexibility (temporary employment contracts, decentralized bargaining, lower social protection payments) significantly improves employment growth or macroeconomic conditions (Marshall 1995, 1996; Blank 1994). Promoters of flexibilization often argue that this is because the reforms have not gone far enough (see articles in Márquez 1995; Lora and Pagés 1997).

The Democratic Model. Rather than being oriented by cost and efficiency concerns, as is the flexibility model, this approach is concerned with the democratization of labor relations, often as part of a broader process of democratization of politics and society. Countries that have moved to dismantle the corporatist features of their industrial relations systems, such as Brazil, have adopted elements of this approach. Unlike the social protection model, this model restricts the government's role in industrial relations to that of an enforcement power. The model accepts the existence of conflict and uneven power balance between workers and employers, but unlike the social protection model, sees the solution not in an expansion of state control. Instead this approach promotes the creation of a system of counterweights to check the power of social actors, while giving them a full range of democratic rights and autonomy from the state and parties. This model tends to see workers as citizens, and thus entitled to full participation in the workplace and in the life of the union.

This model contains liberal elements present in the labor flexibility approach. In particular it favors strengthening the system of collective bargaining (although not mandating its decentralization). However, it also recognizes the need for legislation to protect the powerless and sees deregulation as a means to shift power to employers. Promoters of this approach see it as part of a process of reform of the institutions associated with the state and the legislative and judicial systems.

This model tends to be supported by democratic opposition parties, some independent/democratic unions, and some labor lawyers. Features of this model may reflect the conventions and recommendations of the International Labor Organization. Unions do not automatically favor it, as the push to democratize the system often threatens the interests of established unions. Unions that have benefited from their privileged relationship with the state

and a politicized industrial relations system are also more likely to defend the social protection model over this one.

Paths to Labor Reform in Latin America

This section illustrates the variety of experiences with labor reform in Latin America. Although interest in “flexibilizing” labor law is often the driving force for initial changes in each case, how successful these early initiatives are depends on a host of factors, such as public support for the reforms, the party system and timing of elections, executive-legislative relations, and the strength and political alliances of organized labor. The country stories illustrate how different combinations of factors can influence the labor reform outcomes in each case.

Flexibilization with Strong Unions: Argentina

Argentina may be considered a case of thwarted labor law reform due to the erosion of public support and the political influence of the main labor confederation, the CGT. Under the first Menem government (1989-1994) a number of flexibilizing measures were implemented as part of the administration’s package of market economic reforms. In the labor arena these measures included permitting a variety of fixed-term employment contracts, special terms for small and medium-sized businesses, flexibility on determining the length of the work week and overtime, allowing decentralized collective bargaining, etc. The main labor confederation’s acquiescence in these reforms provoked divisions within the labor movement. One splinter movement, the CTA, left the CGT. The other, the MTA, remained a dissident group with the CGT.

The labor and economic reforms implemented during Menem’s first administration were unable to diminish the country’s unemployment rate, which soared to 18 percent in 1995 before stabilizing at around 13 percent in 1998. This unemployment, coupled with corruption in government and Menem’s increasing use of decrees to pass unpopular measures in congress, led to a decline in public support for Menem and his reforms during his second administration, despite his reelection in 1994. In late 1996, the CGT and other labor groups launched a series of strikes protesting economic and labor reforms. Meanwhile, the International Monetary Fund and employer groups pushed for more extensive reforms of the Argentine labor laws, which largely dated from the Peronist era.⁵ The Peronist loss to a center-left party alliance in the October 1997 congressional elections signaled increasing public dissatisfaction with the Menem government.

It was in this context, two years away from presidential elections, that Menem turned to the Peronist CGT to negotiate the terms of a new labor reform. The result was a body of initiatives that backtracked on some of the flexibilizing measures implemented earlier under Menem, and that reaffirmed national union prerogatives, such as industry and national-level bargaining. The proposed labor laws fell far short of the IMF’s demands and of employers’ preferences. They also met with criticism of the opposition Alianza and labor groups that fell to the left of the CGT, who threatened to call a national strike if the laws negotiated with the CGT

⁵Argentine labor laws reflected the social protection model outlined above, with strong inducement to labor unions (see Collier and Collier 1979). Under the military regime (1976-1983) many collective rights were withdrawn, but these were eventually restored during the 1980s once democracy returned to Argentina.

were passed.⁶ Reflecting the controversy, Menem was unable to obtain a quorum to pass the labor reform in the Chamber of Deputies during August 1998. This led the president to threaten to issue a decree implementing the labor laws, a threat that met with objections from many quarters.⁷ Finally, on September 3 the labor laws were narrowly passed to a wave of criticism from industrialists, analysts, and the press.⁸

The Argentine case demonstrates clearly that even where the government champions neoliberal economic policies, domestic political influences can thwart the direction of these reforms. The failure to curtail unemployment, charges of corruption and the hyperpresidentialist character of the government contributed to the erosion of public support for Menem's reforms. The strength of the labor movement headed by the CGT and its alliance with the president's party were instrumental in labor's ability to influence the terms of the most recent labor reform. Yet the strength of the opposition in congress delayed its passage, and the Menem government's failure to allow public debate over the reform or to secure the consensus of employers and other key groups may complicate its effective implementation.

Flexibility by Force: Chile

In Chile the military government implemented neoliberal economic reforms during the 1970s and 1980s and changed the labor code in 1979. Chilean unions' resistance to the regime and strong political orientation were dismantled or driven underground by brutal repression. When democracy returned to the country in 1990, the labor movement's political influence remained restricted. Public support for neoliberal economic policies and employer support for the flexibilization of labor relations and weak unions had become consolidated, making it hard to overcome political resistance to a restoration of balance in industrial relations. Only minimal changes in the repressive labor code of 1979 were passed in congress.

The partial democratization of the Chilean labor code reflected the partial democratization of the Chilean political system as Pinochet-appointed senators continued to block progressive reforms, backed by a constitution dating from the dictatorship. Any further democratization of the Chilean labor code will have to await further steps in the democratization of its political system through constitutional changes that eliminate the undemocratic structure of the congress. Nonetheless, Chilean unions remain weak, reflected in low levels of union membership, fragmentation, and political divisions within the main labor central, the CUT. Caused in part by current labor laws, labor's weakness does not augur well for successful implementation of a democratic model of labor relations in Chile.

⁶Latin America Weekly Report, September 1, 1998, WR-98-34; Pg. 408

⁷BBC Summary of World Broadcasts, September 8, 1998, from Buenos Aires Economico, August 27, 1998.

⁸The changes included lowering severance payment obligations and easing some dismissal restrictions, perhaps the only "flexible" aspect of the reforms. Other changes included eliminating several existing categories of temporary contracts, reducing the probationary period in indefinite contracts, requiring that bargaining agreements be negotiated with the higher-level union (a hedge against decentralized bargaining), and requiring that old contracts continue in force if for one year if no agreement among the parties is reached during re-negotiation. For details, see La Nación on the web, <http://www.lanacion.com.ar/98/09/04/p04.htm>.

The labor flexibility model defines the country's current industrial relations system. Yet this is a model of labor flexibility suffused with undemocratic restrictions on unions designed to prevent them from gaining any leverage that could strengthen their bargaining power in dealing with employers.

Liberalization of Corporatist Industrial Relations: Brazil

Brazil's corporatist labor legislation dating from the 1940s provided governments with the means to control labor in subsequent decades, including the military period from 1964-85 (Mericle 1977). Singular features of the Brazilian labor laws and constitution included the *sindicato*, whereby unions were formed on the basis of occupational category and territorial unit (no smaller than a *município*); the union tax, which was compulsory for all employees regardless of union membership and helped to finance non-political union activities; and the central role of the labor courts in individual and collective labor conflicts. The late 1970s saw the emergence of the "new unionism" in Brazil, a powerful grassroots workers' movement that was behind the formation of the independent Workers Party in 1979 and the Central Unica dos Trabalhadores (CUT) in 1983, Brazil's largest labor confederation (Keck 1992). After the return to civilian rule in 1985, the CUT, the Workers Party, and other more moderate political parties and labor confederations were able to influence the constitutional reform on labor issues.

The constitutional revision reflected a compromise in which some of the more liberal proposals backed by the CUT were introduced while key features of the old corporatist system were retained. The new constitution greatly liberalized strike laws, eliminated the requirement that unions be registered with the government, and reduced interference in union affairs. But it maintained the union tax and the monopoly organizational structure of the *sindicatos*, and expanded the role of the labor courts (Smith 1995; Buchanan 1989). From an already protective and state-interventionist base, constitutional changes in Brazil extended some protections and established greater autonomy for collective actors by formally removing the state from industrial relations. Rather than radically transforming Brazilian industrial relations, however, this left a hybrid system of corporatist and liberal elements, with many constitutional provisions still awaiting passage of implementing legislation by the mid-1990s (Córdova 1990).

The government of Fernando Henrique Cardoso (1995-) took up the task of implementing neoliberal economic reform that had begun earlier with the regime of Fernando Collor, including trade liberalization, privatization, state reform, and economic stabilization. Cardoso also implemented a number of measures intended to make employment relations more flexible, including ending job security in the public sector. In January 1998 the senate passed laws permitting temporary employment contracts and the use of comp time in lieu of overtime pay via an "hours bank," as well as more flexibility in determining the length of the workday. The means used to implement many of these changes, via "provisional measures" (*medidas provisórias*), made it more difficult for labor unions to mount an effective opposition campaign. Their task was further complicated by Cardoso's unwillingness to consult with the CUT, and by the CUT's political weakness (Bensusán and von Bülow 1997:222).⁹ Splits within the labor

⁹The CUT-aligned Workers' Party had only 10% of the seats in the lower house of congress (Bensusán and von Bülow 1997).

movement over changes in labor law also weakened the CUT's opposition of government reforms.¹⁰

In early 1998 a new labor minister, Edward Amadeo, was appointed and given the charge of devising a new labor law to amend the old CLT. By September 1998, weeks before the presidential and congressional elections, no changes to the labor code had been made. However, the congress did approve a provisional measure permitting part-time employment contracts of up to 25 hours a week, permitting temporary layoffs of up to six months, and extending the period during which employers could use comp time to one year (from 120 days). The government also floated ideas for future measures, which it said would be discussed with trade unions and other affected parties.¹¹ One goal of President Cardoso's was to address unemployment levels through part-time employment contracts in time for the October elections, where Cardoso was running against Workers' Party candidate Luis Inácio Lula da Silva.

The situation in Brazil is still fluid. It remains to be seen how many of the future changes to Brazil's labor laws will reflect the pluralist and democratic changes to the 1988 constitution, and whether the remaining corporatist elements in the constitution will be altered (imposto sindical, unicidade sindical, and the role of labor courts). Although Brazil has the region's most creative and active labor movement, government-labor relations have been strained, and the CUT's political party ally, the Workers' Party, remains a minority party in congress. With Cardoso's re-election virtually secured, it is likely that further flexibilizing labor market measures will be adopted. Whether these are developed on a consensual basis or through exclusion of the CUT is still unknown. Brazil may come to reflect a pluralist and more democratic labor law regime and industrial relations system at a time when unions are weakening, individual social protections are being reduced, and the government is less sympathetic towards labor and less willing to deal with unions as a serious social actor.¹² The dismantling of state subsidies and union inducements may appeal to strong and independent unions, but it can also hasten the weakness of labor overall under less favorable economic and political conditions.

Continuing the Social-Protective Tradition: Venezuela

Venezuela's revised labor law was passed in 1990 after five years of debate in congress. Although it contained elements of flexibility, the 1990 Law essentially strengthened the prior

¹⁰A smaller yet increasingly influential labor central called Força Sindical has been more willing to make the concessions toward flexibility that the government has sought, while the more traditional CGT wanted to maintain the corporatist "inducements" to labor present in the Consolidated Labor Laws. The CUT favors greater union pluralism and elimination of the union tax and of other corporatist vestiges in the labor laws and the constitution. While the government also favors these changes, the CUT viewed some of the government's proposals and changes in the area of employment law as harmful to workers and threatening to unions.

¹¹These included eliminating the union tax, reducing government contributions to the FGTS in exchange for job security contract clauses, and allowing the temporary suspension of collective agreements.

¹²Structural changes in the economy, privatization, and declining manufacturing employment have contributed to growing union weakness in the 1990s in Brazil (Bureau of National Affairs 1996).

legislation's social-protective orientation. Labor law change did not respond directly to economic pressures, in spite of Venezuela's economic decline during the 1980s and repeated attempts at economic restructuring. Nor did democratization explain the outcome, as Venezuela did not have an authoritarian episode before the reform. The Venezuelan case is therefore somewhat anomalous. Although President Carlos Andrés Pérez was committed to implementing neoliberal reforms when he was elected in 1988, corruption scandals and two coup attempts finally forced him to step down in 1993, postponing substantial economic reform.

By 1996 the government again turned to a structural adjustment program, and discussion of further labor reform resurfaced. A tripartite commission was established in order to discuss wage and social security reforms, resulting in an agreement to alter the determination of wages in a way that would reduce the social charges employers were obligated to pay, which had long been an employer demand. Involving labor through the tripartite commission helped to tone down unions' earlier resistance to reform. However, by August 1997 employers had not yet followed through on their commitment to raise wages, and the unions launched their first general strike in eight years (Ellner 1993; Latin American Weekly Report, August 5, 1997).

Venezuela remains a country where popular support for neoliberal economic restructuring is weak, despite the current economic crisis facing the country (Schemo 1998).¹³ This lack of consensus for neoliberalism has its roots in an historical reliance on oil and the state as a source of welfare and employment. The mistrust of neoliberalism is reflected in the lack of a strong and unified coalition for labor flexibility, which is in turn shaped by Venezuelan unions' close ties to political parties. Whether Venezuela's current economic woes begins to alter the political balance in favor of economic reforms remains to be seen.

The Mexican Case

Background and Context

Mexican labor legislation is based on Article 123 in the 1917 Constitution and in the Federal Labor Law first established in 1931 (with a major revision in 1970). As in many other Latin American countries whose labor codes were developed during the first half of this century, Mexico's labor legislation is detailed and protective of workers; on paper it is among the most pro-worker in the world. The Constitution is especially detailed with regard to such matters as hours of work, maternity leave, vacation, conditions for dismissal and severance pay, promotion, and so forth, matters frequently left to collective bargaining in the United States.¹⁴

¹³As in Brazil, Venezuela's reluctance to embrace neoliberal policies may have been influenced by the crisis of the presidential administration that had adopted this platform. Carlos Andrés Pérez, elected in 1988, pledged to implement economic reforms. Yet his term was marked by two coup attempts and then corruption scandals which forced him to resign in 1993. Rafael Caldera was elected to the presidency on a platform of rolling back economic reforms. Similarly, Brazil's president Collor de Mello was impeached for corruption in 1992, after being elected on an economic reform platform in 1989.

¹⁴See Secretaría del Trabajo y Previsión Social, *Ley Federal del Trabajo* (11a edición, 1994). For summarized discussions of specific parts of Mexican labor law and a comparison with United States and Canadian legislation, see *A Comparison of Labor Law in the United States and Mexico: An Overview* (Secretaría del Trabajo y Previsión Social and United States Department of Labor, n.d.?); and *Preliminary Report to the*

For some time various groups in Mexican society have argued for the need to reform Mexico's labor legislation. Employers have argued that the law is too restrictive and interferes with their ability to remain competitive in the new economic environment. Unions have called for reform in several instances, seeking even stronger protections.¹⁵ During the Salinas administration (1988-94) the topic again heated up. But the possibility that this issue would escape the control of the PRI in the first congress under Salinas, in which the left opposition was strongly represented, and the staunch opposition of the CTM throughout the presidential *sexenio* prevented the issue from reaching congress.

Through its adoption of structural adjustment and the shift to neoliberal economic policies during the 1980s and 1990s, successive Mexican governments have increasingly abandoned their earlier protection of labor in favor of employers. The state has made *de facto* flexibilization by employers possible, making the immediate need for legal reform less pressing. Wages have also served as a vehicle of flexibility during this period though wage suppression in the annual *pactos* between government, business, and labor. The role of the CTM in suppressing wage demands and militancy among its members was also key in providing greater employer flexibility and control than indicated in the law (Bensusán and von Bülow 1997:195).

The issue of labor reform remains on the agenda, however, and more and more sectors of society are beginning to accept publicly that changes are necessary, although there is as yet no consensus on the nature of those changes. As in many other countries in the region, labor reform is being discussed in Mexico well after the implementation of economic reform (Lora and Pagés 1997). Mexico began trade liberalization over a decade ago, joining the GATT in 1986. Under President Salinas the country underwent a deepening of structural economic reform, exemplified by extensive privatization of state enterprises, trade liberalization, cuts in state subsidies for basic foodstuffs, rural policy changes that liberalized sale of previously restricted land holdings, and Mexico's participation in the North American Free Trade Agreement, among other measures.

The peso devaluation in December 1994 at the beginning of the Zedillo administration and the economic crisis that followed changed the political environment as well as the economic fortunes of the country. The sense of crisis generated by sudden high rates of job loss in 1995, in particular the fear of social explosion, compelled official labor and employer organizations to begin to talk to each other about changes in labor relations (see section on *nueva cultura laboral* below). This was an unprecedented move that was encouraged and facilitated by government yet not directed nor even initiated by it. In 1995 the National Action Party also produced a detailed proposal for labor law reform. Although its formal presentation to congress was tabled at the time, its existence prompted a serious public discussion about the merits and shortcomings of the proposal and propelled a number of groups to develop their own recommendations.

The economic crisis hastened the fragmentation of the official labor movement headed by the CTM. In 1995 a number of other labor groups critical of the CTM's passive acceptance of economic policy began to discuss alternatives to the official structure. With long-time CTM

Ministerial Council: Labor and Industrial Relations Law in Canada, the United States, and Mexico (Secretariat, Commission for Labor Cooperation, North American Agreement on Labor Cooperation, December 1996).

¹⁵The CTM initiated discussions for reform in 1987-88, and the Labor Ministry established a tripartite commission to begin discussions in 1989. Formal hearings were held in congress in August 1989, but reform was stalled. See Middlebrook, 1995, p. 298.

leader Fidel Velázquez's death in June 1997, these other groups became more important. By November 1997 a new central of labor organizations, the Union Nacional de Trabajadores (UNT), had formed. The labor movement coalesced around three major centers, the CTM and other organizations of the umbrella Labor Congress, containing the majority of workers; the UNT, headed by the telephone union, university unions, and social security workers' union; and the May 1 Inter-Union Coordinating Committee, made up of an array of more radical labor and community groups. Lines between these groups remained fluid well into 1998, with new alliances and coalitions emerging and breaking over such issues as labor organization, economic policy, and labor law reform.

By 1998 several important developments helped to reopen the debate on labor law reform. The reorganization of the labor movement after Fidel's death was a key development. It weakened the CTM's earlier obstructionist stance and made possible new allies within labor for political parties, especially the PRD (Party of the Democratic Revolution). The congressional elections in July 1997 presented perhaps the most important change. For the first time the lower house of congress had an opposition majority (though divided between the left PRD and the conservative National Action Party, the PAN). This meant that the congress would no longer serve as the rubber stamp of executive initiatives, and that President Zedillo would have to negotiate with the opposition in congress for passage of the government's legislative proposals. With the strength of the PRD showing in the chamber of deputies, the party developed its own proposal for labor law reform, which it planned to introduce to congress in September 1998.

This congressional composition reflected a third important and, for Mexico, unusual development in politics, which was the relative weakness of the Zedillo presidency. This gave the parties and other social actors greater freedom to take the initiative on labor reform. In sharp contrast to the situation in other countries, the government had not yet presented its own proposal for labor change by mid-1998. Instead of reacting to a government initiative, which would have been consistent with past experience in Mexico, opposition parties helped to define the agenda on labor reform by putting their own proposals on the table first. In Argentina and Brazil, in contrast, the process of labor law reform was being driven by the government rather than initiated by the legislature.

All of these factors, the opposition majority in congress, the political recomposition of the labor movement, the relative weakness of the president, even the economic crisis and the modified rapprochement between labor and employer groups in 1995-96 meant that the political environment was more conducive to democratizing the industrial relations system than ever before. Contributing to this political environment is the broader process of democratization in politics and society and recognition of the need for further institutional reform throughout the system. Even though Mexico is not undergoing a "transition to democracy" similar to its Latin American neighbors, the sense of the need for institutional re-design bears some similarities to the experiences of other re-democratizing regimes.

Proposals for Reform

Employers. As early as 1989 several key employer organizations had begun to demand changes in the federal labor law and in Article 123 of the Mexican Constitution, suggesting that the law was an obstacle to employers' ability to remain competitive in a global economy. This initiative began an ongoing struggle between labor and employer groups over whether and when to introduce the issue of labor law reform.

Employer groups in Mexico have traditionally pressured the government to reform the labor law in ways that would increase employer discretion, flexibilize labor relations, especially hiring and dismissal, and lower employer costs. Examples of some of the proposals the Confederación Patronal de la República Mexicana, COPARMEX, made public in 1989 and again in 1994 bear this out.¹⁶ Employers wanted to make it possible to hire workers under temporary contracts, to pay by the hour (currently the minimum wage is a daily rate), to facilitate (lowering costs) dismissals, to subject strike decisions to a vote by workers, to introduce probationary periods in employment (via training or apprenticeship contracts), to promote according to performance and knowledge and not seniority exclusively, to prohibit the closed shop and union shop, to require arbitration upon request of one of the parties in conflict, to allow individual workers to determine whether or not to belong to the union, to prohibit union leaders from holding union and political office simultaneously, and to prevent collective affiliation to political parties.¹⁷ Many of their proposals were similar to reforms undertaken in the name of enhancing flexibility elsewhere in Latin America. Later, during talks with the CTM in 1995-96, some of these demands resurfaced, but were more moderated (see below).

At the request of government the COPARMEX and the Consejo Coordinador Empresarial (CCE) prepared another list of key changes they wanted to see in labor reform as part of the “dialogue” with labor and government and turned it over to the labor bloc on September 14, 1998.¹⁸ The employer groups’ proposals recalled earlier demands for flexibility and deregulation. Among their proposals were eliminating the exclusion clause, permitting temporary and part-time work contracts, permitting workers and employers to negotiate directly wages and work schedules (within a 48-hour work week), reducing overtime costs, eliminating various categories of craft unions, increasing the minimum number of workers required to form a union (currently the number is 20), eliminating law-contracts (industry-wide contracts that exist in sectors such as sugar and textiles), and prohibiting solidarity strikes.

Nueva Cultura Laboral. The tug-of-war over whether or not a reform would take place continued during the first few months of 1995, which were also the months of Mexico’s severe economic recession in the wake of the peso devaluation and of unprecedented high unemployment. In May 1995 the COPARMEX began to talk about the need for a dialogue to discuss a “new employment culture”, agreeing for the moment to leave the question of legal and constitutional reform aside. The COPARMEX and the CTM agreed to engage in a series of talks regarding “la nueva cultura laboral.”

¹⁶Coparmex, “Propuestas preliminares que la Coparmex presenta para la discusión de un anteproyecto de Nueva Ley Federal del Trabajo, June 1989, mimeo.; and Consejo Coordinador Empresarial, “Propuestas del sector privado,” presented to the PRI presidential candidate July 1994, mimeo; Bensusán and von Bülow 1997: 208, fn. 13).

¹⁷ For a detailed labor response to these employer proposals, see Juan Millán, “Por Qué Rechazamos Las Propuestas Laborales del Sector Privado,” transcript of unpublished speech, March 1995.

¹⁸Employer demands were presented to the labor bloc in a six-page document entitled, “Aspectos relevantes que principalmente deben formar parte de la actualización del marco normativo de una nueva Ley Federal del Trabajo.” For details, see Cerón 1998.

The parties organized nine working groups composed of representatives from labor and employer organizations, which met over the course of approximately a year and drafted agreements on each of nine issues.¹⁹ The agreements were mostly limited to general principles or points of consensus rather than specific references to existing law or explicit recommendations to change the law, with few exceptions. They leave open to interpretation whether they may ultimately be taken as agreement for long sought-after changes in labor law.

The first public document to emerge out of this process was presented in August 1996 and entitled "Principios de la Nueva Cultura Laboral."²⁰ This was an initial consensus document on "principles" elaborated by the Technical Committee, and its twelve-page length was brief compared with the several hundred pages produced by the working groups over the course of the year.²¹ Several labor groups refused to approve the principles document, reflecting strong internal divisions over the process within the Labor Congress.²² Aides close to the COPARMEX-CTM negotiations downplayed the criticism, claiming that this was the first step in a long process of dialogue.

The key bargain that appears to have been struck between employer and labor groups in the Nueva Cultura Laboral talks was to exchange increased flexibilization for conserving the status quo with regard to collective rights. According to an observer close to the talks, labor ceded on promotion, increased flexibility in the workplace, and lower social costs for employers in exchange for retaining the closed shop, union autonomy (and the right to engage in politics), and the principle of monopoly of representation in a particular bargaining unit (exclusivity of the title to the collective bargaining agreement). Employers wanted to see concessions made in the areas of lowering dismissal costs, eliminating exclusion clauses, changing strike laws, and limiting union participation in politics, yet these remained unchanged at the end of the talks.²³

¹⁹The topics of the working groups were: 1) Principles of labor ethics; 2) Employment; 3) Remuneration; 4) Training and education; 5) Productivity, Quality, and Competitiveness; 6) The role of the firm in society; 7) Rights and obligations; 8) Conflict and labor justice; 9) Rural labor policy.

²⁰It appeared as a draft document in July. See *Principios de la Nueva Cultura Laboral*, Agosto de 1996. Analysis of this document as well as more details on the working group reports can be found in Bensusán 1997, and Cook 1997.

²¹The eight working groups submitted their conclusions and recommendations to a Technical Committee formed by four representatives of labor, four of business, and two undersecretaries of the Labor Ministry, who had acted as coordinators and provided the technical support to produce the document. The sections of this 12-page document are: 1) Central Objectives; 2) Basic Principles, 3) Ethical Principles in Labor Relations; 4) Principles governing labor rights and labor justice; 5) Economic principles, which is divided in turn into a) General Considerations; and b) Considerations in the area of Education, Training, and Productivity.

²²Reflecting the divisions within the labor sector over the final document of the N.C.L., one union leader said "las organizaciones integrantes del CT 'fuimos de mirones' a la firma de un documento que nunca fue consensado." See Pablo González, "Descalifica la CRT el Documento Promovido por CTM-COPARMEX," *Excelsior*, 12 sept. 1996.

²³Author's confidential interview in the PRI, October 29, 1996, Mexico City.

To some the agreements were significant because they represented the first attempt at direct negotiation and consensus between employers and labor, without the intervention, initiative, and direction of the government. They also established a precedent of consensual dialogue between employers and labor that, while not explicitly agreeing to changes in the federal labor law, did increase levels of trust and agreement that could well influence the eventual labor law reform debate in a more bilateral way. To others, however, the accords were relatively meaningless. Critics cited the weakness of the labor groups' ability to negotiate in the working groups (their lack of preparation), the fact that the agreement had been reached by "cúpulas" [leaders of peak organizations] and did not represent real changes on the ground — among workers and individual employers; that "independent" unions did not play a central role in the discussions, and thus the agreements were between the most traditional and officialist organizations who were unlikely to subscribe to any real reforms.

Despite these dismissive claims, employer and labor groups as well as others still referred to the nueva cultura laboral well into 1998. The importance of the precedent of direct negotiations between employer and labor groups set during these talks may become more evident in the current period as unions and employer organizations consult with the government on the terms of a new labor law.

National Action Party (PAN). The PAN proposal is the first of two serious and detailed projects for labor law reform in existence today.²⁴ Developed by two respected independent labor lawyers, the PAN proposal was widely discussed and commented upon in the press and in academic symposia.²⁵ Some changes have since been made by the PAN to the initial proposal, but with few notable exceptions (such as lifting the prohibition on union involvement in religious activities), it is much the same as it was. The proposal was presented to the senate in July 1995 and has remained in committee, but recent discussions of labor reform are again bringing its provisions into the public debate.

Despite a common perception to the contrary, the PAN proposal is not a "neoliberal" proposal in the sense of minimizing employer obligations and of weakening the collective rights of workers, nor in the sense of lowering costs to employers (Bensusán, 1996). It is "liberal" in the sense of breaking with corporatism, with union monopolies and the institutional and legal supports that encouraged anti-democratic internal practices, and with the state's tutelary role and powers of intervention. Besides calling for a number of changes that would pose a direct challenge to current union bureaucracies (eliminating the exclusion clauses, instituting workplace committees separate from the trade union structure, and stipulating transparent electoral procedures), the proposal also asks for improvements in working hours and benefits, and for institutionalized participation by workers in strategic decisions at the firm level, through rank-and-file-elected "workplace committees" (*comités de empresa*) or plant delegates. These committees would also be responsible for administering the collective bargaining agreement which, under the proposal, would be called "collective pacts on working conditions".

²⁴Senado de la República, Grupo Parlamentario del Partido Acción Nacional, *Iniciativa de Decreto que Reforma a la Ley Federal del Trabajo* (1995).

²⁵See, for example, by various authors, *Legislación laboral: El debate sobre una propuesta* (Mexico: UAM-Xochimilco and Fundación Friedrich Ebert Stiftung, 1996).

This provision is one of the most controversial aspects of the proposal for labor unions, and no doubt for some employers. While it theoretically demands democratic participation by rank-and-file workers at the firm or plant level, there is nothing in the proposal that stipulates that such committees must be composed of nor even headed by union members. Unions fear that employers would use such factory committees to sow discord among the workers and undermine support for the union, making it easier to form company unions or even non-union plants. The sum result of the PAN project would be to make unions work harder to keep their membership, a development that some view more positively than others. Indeed, the tone of the PAN proposal is less sympathetic toward unions overall. Rather, it stresses protection for the freedom of individual workers against the corrupt and authoritarian tendencies of unions.

This position toward individual workers in the PAN proposal does not necessarily reflect a sympathy toward employers. The proposal retains many of the law's current employer obligations by employers, and in some cases increases the costs of these (vacation time, vacation pay and the end-of-year bonus or *aguinaldo*). There are also important nods in the direction of flexibility, notably through temporary contracts, probationary periods, and easier terms of dismissal, but the proposal retains the premise of labor stability (*estabilidad laboral*) that has traditionally informed legislation throughout the region (Bensusán and von Bülow 1997:213).

Other notable characteristics of the PAN proposal include an expanded scope of bargaining topics at the workplace level and an obligation of employers to share information about the company with employees, which is essential for workers to be able to bargain effectively for wage and benefit gains due to productivity. The PAN proposal also leaves open the possibility of collective agreements by industry, something akin to the current law contracts that exist in some sectors in Mexico, but without the central government role in overseeing these (Bensusán 1996:7). Finally, the PAN proposal would take the resolution of labor conflicts out of the executive branch (through the *juntas federales y locales de conciliación y arbitraje*) and place this responsibility in the hands of the judiciary through the creation of "*jueces de lo social*," judges especially trained to rule on labor conflicts.

Some observers argue that there is very little chance that the proposal would be accepted by any of the social partners. In the first place, because it undermines those who benefit from the longstanding corporatist arrangement in industrial relations, thus meeting with top labor groups' rejection. Second, from the employers' perspective it does not go far enough in lowering their costs or in freeing up their hands. Some independent left analysts and labor unions have rejected the proposal because they claim it will leave unions too unprotected vis-a-vis employers and will lead to an "atomization" of Mexican unions. Others have protested that it is too "neoliberal." Still, many elements of the PAN proposal have been viewed positively by the most knowledgeable labor analysts and advocates. The debates surrounding the proposal have at the very least opened some of the most entrenched and undemocratic elements of Mexican labor law to public examination, the first step to their eventual reform in a context of democratic exchange.

Party of the Democratic Revolution (PRD). The PRD proposal for labor law and constitutional reform is the other most detailed proposal that exists today.²⁶ It bears some similarities to the PAN proposal, which has raised the possibility of points of consensus between

²⁶Partido de la Revolución Democrática, "Anteproyecto de reforma constitucional en materia laboral," and "Anteproyecto de reforma a la Ley Federal del Trabajo," 1998.

them. Like the PAN proposal, the PRD reform is aimed at dismantling the corporatist framework of industrial relations, including the cozy relationship between official unions and the government, and the anti-democratic tendencies of most unions. The PRD proposal, however, is willing to retain the exclusion clause, a traditional union prerogative.²⁷

Like the PAN proposal, the PRD proposal operates from the same basic footprint as the existing Article 123 of the Constitution and the Federal Labor Law. The parties' proposals remain as detailed as the existing law; there is little attempt to deregulate. The greatest changes relate to the system of collective representation and bargaining, in particular the areas of union autonomy, union and bargaining structure, internal functioning of unions, workplace representation, and the system of labor justice. Like the PAN proposal, the PRD calls for removing the labor court system from under the executive and placing it in the judiciary, and for eliminating its tripartite character.²⁸

The chief aim of the PRD proposal is to democratize the industrial relations system, and especially labor law and labor relations involving unions. It accomplishes this through a range of changes intended to introduce "counterweights and balances," focusing on democracy, autonomy, and the "full citizenship rights of workers."²⁹ In this regard it most closely follows the democratic model of labor reform outlined earlier. The proposal acknowledges that unions must be allowed to retain sources of power in order to protect labor standards and rights. The issue here is to introduce sufficient "liberal" elements to break the corporatist links of unions to government in order to force them to become more responsive to their members. To accomplish this the proposal calls for the removal of the government from the affairs of unions, eliminating government involvement in union registration as well as government authority to "intervene" during strikes and to determine wage increases. The proposal also calls for prohibiting the collective affiliation of unions to parties. These efforts to "liberalize" a corporatist industrial relations system by radically altering the state's role is similar to the Brazilian constitutional reform in 1988.

If the PRD has proposed radical change in the areas of collective labor relations and labor justice, it has reaffirmed the existing law's protective orientation toward individual workers. In the areas of working conditions, benefits, and so forth the initiative largely maintains existing terms. In several cases it strengthens the levels and scope of protection of workers and increases employer obligations by requiring a greater number of paid vacation days, expanded year-end bonus payments, and longer paid leave periods for women employees who give birth. There are

²⁷The exclusion clause is a union shop or closed shop provision in the contract, in which the employer must hire union members or workers must become union members after employment. The employer is then obligated to dismiss and worker who voluntarily leaves the union or is expelled. This provision has been used by unions in Mexico to curtail internal dissent or militancy. The PRD law would allow unions to maintain the exclusion clause in union contracts as long as members vote to authorize their leaders to include it in their collective bargaining agreement.

²⁸The Nueva Cultura Laboral documents would keep the system where it is but provide increased training and "professionalization."

²⁹"Presentación del Anteproyecto de Reforma Laboral del PRD," p. x.

few concessions here to employer demands for flexibility.³⁰ This despite explicit recognition of the need to enhance productivity and competitiveness. The proposal openly tables some important topics for later discussion. Among these postponed topics are part-time work, occupational health and safety, and child labor.³¹

The PRD proposal has elicited many different reactions even before its introduction to congress, scheduled for September 1998.³² Employer and union groups in general (most of them identified with the PRI) appear threatened by the opposition political parties' quick and skillful domination of the topic of labor law reform. Independent unions have also varied in their response to the proposal. Some, such as the Frente Auténtico del Trabajo, support the PRD proposal as it calls for many of the same reforms they have championed over the years. Others, such as the UNT have waffled in their support (see below). The May 1st Inter-Union Coordinating Committee has opposed the PRD reform, calling it "neoliberal."

Unions. Unions have been divided on whether and how much change in labor law they want to see. The "official" unions represented by the CTM and Labor Congress have largely stood by Federal Labor Law and Article 123, although there have been times when they wanted to strengthen pro-union provisions in these. Independent unions have varied in their positions. The FAT has been willing to accept the possibility of union pluralism via elimination of the exclusion clause and other measures, whereas the important telephone workers' union has been somewhere in the middle on this issue calling for other changes in state authority and intervention.³³ Still other independent unions, such as the venerable Sindicato Mexicano de Electricistas (SME), maintain that both greater democracy and greater flexibility are possible within the parameters of the existing law and constitution (Bensusán and von Bülow 1997:220).

As the debate in congress over labor law reform looms near, unions have turned their attention to this issue. Spurred by the government as well as by the existence of opposition party proposals, unions from the "official" sector and the UNT discussed presenting a unified labor position on what elements a new labor law should contain. The labor minister encouraged

³⁰This initiative calls for one month probationary period in employment contracts, after which the employee must be considered employed under an indefinite contract.

³¹Other important changes the PRD proposal recommends include: establishing one minimum wage level throughout the country (currently there are several) and giving congress the authority to set the minimum wage; establishing a 40-hour work week with 56-hour pay; allowing unions to determine their bargaining structure and levels rather than having this set by law; eliminating Apartado B of the labor code, thereby granting public sector workers a full set of collective rights; deregulating the area of strikes; extending federal jurisdiction in labor matters throughout the country (including over states and municipalities); and calling for a range of measures aimed at benefiting female employees, including non-discrimination in employment, prohibition of pregnancy tests as a condition of employment, and affirmative action. See the documents for details.

³²The PRD held a number of forums throughout the country throughout the summer months to discuss its labor initiative.

³³The telephone workers have laid out a list of points for labor reform that they consider important, but not a detailed proposal on the scale of the PRD's or the PAN's.

employer organizations to do the same and to meet with labor unions to arrive at a consensus. Not surprisingly, the fragile alliance between UNT and the CTM/Labor Congress and the CROC seemed to break down in August.³⁴ Differences revolved around whether there should be a partial (CTM) or “integral” (UNT) reform of the law, meaning institutional reform of various dimensions—state, judicial, tax systems—simultaneously. The UNT also suspected the CTM and CROC of negotiating separately with the government instead of forging a union position that included them. By September, however, the “labor bloc” was back on track, participating in formal “dialogue” sessions with employers called by the government.

What drove these initiatives in the first place was the concern that the political party proposals did not fundamentally have union interests at their center and that unions risked being marginalized from the process if they did not unite around a set of proposals. Even though the PRD had drawn up parts of its initiative in consultation with the UNT, the UNT opted to try to shape a labor position rather than throw its support openly behind the PRD proposal. This distinction between the legislative arena as a forum where the changes in labor law could be determined and the arena of consultation among the “social actors” was drawn at every opportunity by unions, employer groups, and even government throughout this period.

On the left, an expanded coalition of 52 unions whose base was in the May 1 Inter-Union Coordinating Committee formed the Asamblea Nacional de Trabajadores, and together with the Frente Sindical Mexicano (composed of dissident currents from the electrical, telephone, railroad, teachers, and oil workers’ unions), they vowed to fight the party’s proposals and any changes in the labor law or Article 123.

Government. The government has not yet presented a proposal for labor law reform. Yet both the Salinas and Zedillo governments have raised the issue, prompting parties and affected interest groups to respond. A government initiative in 1992 did not address labor law reform directly but did deal with the need to change labor relations generally. This was the Acuerdo Nacional para la Elevación de la Productividad y la Calidad (ANEPC) signed by government, labor, and employer organizations (Bensusán and von Bülow 1997:214-16). Later, President Zedillo’s National Development Plan (Plan Nacional de Desarrollo, PND) for 1995-2000 set the tone for a change in labor law and labor relations based on consensus. Participants in the *nueva cultura laboral* talks cited the PND as partial incentive for their efforts.

The replacement of Jaime Bonilla with José Antonio González Fernández as the new labor minister in May 1998 was widely seen as a sign of the government’s interest in pushing through a labor reform initiative soon. Since his appointment the labor minister has been calling for a labor reform based on consensus and consultation with employer and labor groups. He has alternately cajoled these groups into action and consoled them, repeatedly stating that there is no hurry, that the important thing is obtain agreement. President Zedillo has the authority to send an initiative on labor law to the congress, González Fernández has said, but would prefer that the process be based on “consensus and dialogue” (Contreras 1998). Whether the government is able to achieve this consensus and move forward in developing a labor law initiative remains to be seen.

³⁴This period included an initial list of changes to the labor law favored by labor. See Perea 1998, and Contreras 1998.

Three Scenarios for Labor Law Reform in Mexico. Given the correlation of forces as of this writing, three scenarios for labor reform seem possible. The first is that the entire issue will get postponed yet again as the irreconcilable differences come to the fore and the government is unable to produce a consensus document. This scenario also seems possible given the array of pressing issues the congress will have to deal with as the session opens in the fall: the bailing out of the banks (FOBAPROA), the ongoing Chiapas conflict, and the deepening economic crisis.³⁵

A second scenario is that the PAN and PRD will manage to produce a consensus reform bill among themselves, and use their majority in the Chamber of Deputies to push this through.³⁶ Although the PRI majority in the senate could block the reform and failing that, Zedillo could veto it, it is possible that Zedillo could negotiate with opposition parties, exchanging support for the labor law for opposition help elsewhere (Bensusán and von Bülow 1997). Yet given the lack of strong support for the opposition's proposals from employers or unions, this prospect might have political drawbacks for the parties. This scenario therefore seems less likely unless important compromises can be found that bring in these other groups, or unless the government proposal is found to be more threatening to labor and capital than either one of the opposition party proposals.

A third scenario is that the government will manage to successfully negotiate a reform project with key employer and labor groups, and draw support not only from the PRI but from some members of the opposition parties in congress. This package would probably entail strong concessions to flexibilization in employment, including extended probationary periods, temporary contracts, hourly pay, flexible work schedules, and so forth, similar to what has been adopted elsewhere in the region. At the same time, the government proposal could retain many of the prerogatives enjoyed by official unions and thereby secure the support of this sector. This option might come closest to reflecting some of the working group proposals during the nueva cultural laboral talks.

Conclusion

The Mexican experience with labor law reform, while still in its early stages, already reveals several characteristics that distinguish it from its Latin American neighbors. Unlike other countries where the sequence of democratization and economic reform led the corresponding elements of labor law reform to be handled sequentially as well, Mexico is facing a simultaneous challenge. Pressure for labor law change derives both from neoliberal economic reforms and from the democratization process the country is undergoing. As noted earlier in the discussion about models of labor regulation, there is a tension between demands to democratize industrial relations and labor law and demands to flexibilize them. Dealing with both pressures simultaneously gives Mexico an opportunity to address both in a single package of changes, but it will undoubtedly also complicate efforts at consensus.

³⁵Indeed, the labor bloc increasingly appears to be favoring postponement of the issue, questioning whether consideration of labor law reform is possible in a context of worsening economic crisis.

³⁶This prospect is not as far-fetched as it may seem at first glance, given that the PAN and PRD have recently agreed to a "governability pact" with a view toward getting past the economic crisis and securing political stability for the 2000 presidential elections.

The *process* that labor law reform debates have taken so far in Mexico also differs from the experience of other countries in two important respects. First, the process has been led by the opposition political parties, which remain the only ones with fully-formed alternative proposals to existing labor law and to Article 123 of the constitution. Both proposals call for far-reaching institutional reforms that would break with the existing state-dominated system. Both are interested in inserting democratic rights of participation by workers within their unions and in the workplace. In contrast, where labor reform has responded to pressures to flexibilize, governments have led the process. This has forced other actors to react to government initiatives and has often curtailed debate.

The second distinctive aspect of the Mexican process is its open and consensual nature so far. The degree of public debate in Mexico surrounding the labor law reform issue may be unprecedented in the region. The Brazilian president has avoided consultation with the labor sector during past reform measures. Until his party was threatened by the congressional election results in late 1997, the Argentine president had passed many initiatives by decree and against the will of the labor sector of his party; with the latest reform, he excluded employer groups and all others from the debate. In contrast, the Mexican government has repeatedly called for consensus and dialogue, is talking to all parties—labor unions, employer groups, opposition parties, and intellectuals—and has initiated a formal series of talks between employer and labor organizations. Whatever one speculates about the motivations of the president and labor minister, the degree of involvement of various parties in this issue is likely to act as a hedge against passing legislation that excludes the interests of any one important sector, by increasing the political costs of doing so.

But is consensus possible? The Brazilian, Argentine, and even the Mexican experience up until 1998 illustrate the difficulties with attempting to reconcile what may amount to irreconcilable differences between employers and unions, between interest groups and political parties, between pressures from international financial agencies and pressures from domestic constituencies. The question of labor law reform presents a special bind: a comprehensive reform may not be able to pass without some element of coercion or legislative trickery, but neither can it be effective without some degree of public consensus. Mexico has the difficult challenge and unique opportunity to design and pass a comprehensive labor law reform that democratizes while accommodating the legitimate needs of employers, and that does the latter while protecting the rights of unions to exist and wield power. In this other countries provide lessons, but not a model.

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