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Foreign Labor Trends: Brazil

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Foreign Labor Trends

Foreign Labor Trends

Brazil



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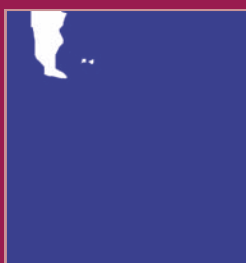
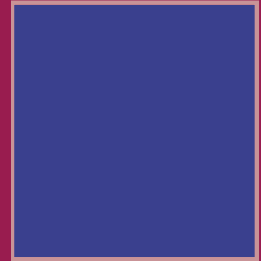
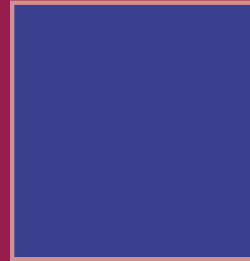
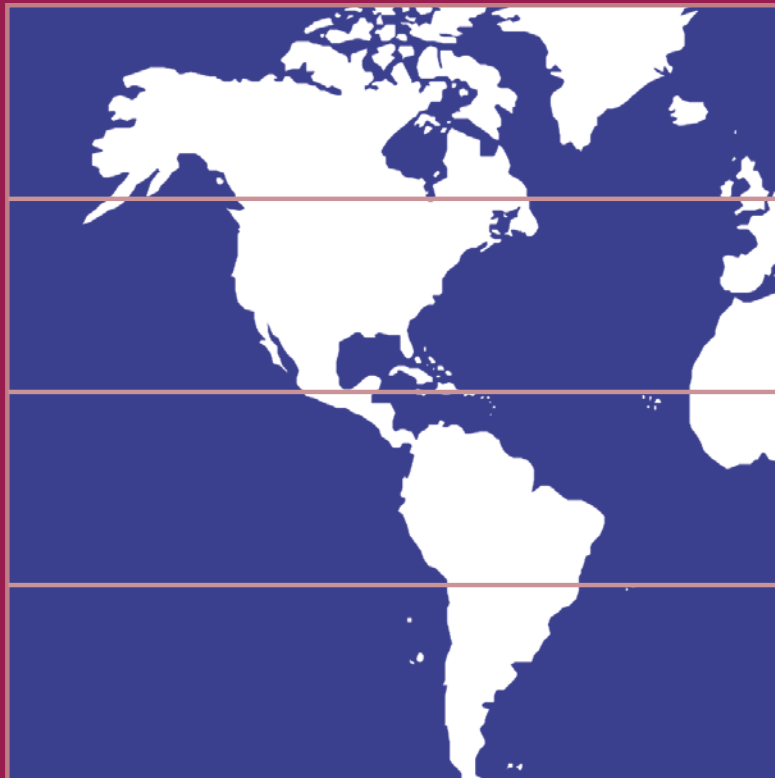


TABLE OF CONTENTS

	Page
KEY LABOR INDICATORS	1
SUMMARY	4
THE LABOR MARKET	6
EMPLOYMENT	6
EARNINGS.....	7
LABOR LEGISLATION	9
OVERVIEW	9
LABOR LAW REFORM	10
ORGANIZED LABOR	12
BACKGROUND	12
MAJOR LABOR CENTRALS	14
LABOR RELATIONS	17
SOCIAL SAFETY NET	20
SELECTED WORKER RIGHTS ISSUES.....	22
FORCED LABOR.....	22
CHILD LABOR.....	23
DIRECTORY OF LABOR ORGANIZATIONS	26

KEY LABOR INDICATORS

Brazil 2002

<u>INDICATOR</u>	<u>2000</u>	<u>2001</u>	<u>% CHANGE</u>
1. Per capita GNP current prices (US\$) ¹	<u>1999</u> 3,229	<u>2000</u> 3,587	11.1
2. —, in Agriculture (%) ²	9.0	n/a	~
3. —, in Manufacturing (%)	29	n/a	~
4. —, Services (%)	62	n/a	~
5. —, (reals)	5,740	6,387	11.3
6. Population, total (millions) ³	167.9	170.1	1.3
7. —, major ethnic groups (%) ⁴	<u>1998</u>	<u>1999</u>	
White	54.0	54.0	0.0
Afro-Brazilian	5.7	5.4	-5.3
Mixed race	39.5	39.9	1.0
Other	0.8	0.7	-12.5
8. —, in major urban areas (%)	80.0	79.7	-0.4
	<u>2000</u>	<u>2001</u>	
9. Birth rate (per thousand population) ⁵	20.0	19.9	-0.5
10. Life expectancy at birth, total ⁶	62.94	63.24	0.5
11. —, male	58.54	58.96	0.7
12. —, female	67.56	67.73	0.3
13. Adult literacy rate (%)	83.3	83.3	0.0
	<u>1998</u>	<u>1999</u>	
14. Labor force, civilian, total (millions) ⁷	76.9	79.3	3.1
15. —, male (millions)	45.6	46.5	2.0

¹ Source: Central Bank of Brazil (*Ibid.* For #5)

² Source: *The World Factbook* 2000 and 2001 (*Ibid.* for #s 3 & 4)

³ Source: Brazilian Institute of Geography and Statistics (IBGE), Census data. Brazilian federal police estimate that 900,000 foreigners lived in Brazil in 2001. Of these, 790,000 are believed to be permanent residents. The Ministry of Foreign Relations estimates that 1.9 million Brazilians lived abroad in 2000. The largest number is believed to have resided in the United States (800,000), followed by Paraguay (450,000) and Japan (225,000).

⁴ IBGE, PNAD household survey. The PNAD is an annual survey conducted by the IBGE of approximately 350,000 people in 115,000 households. The survey includes all of Brazil, with the exception of the rural areas of the North of the country. The PNAD survey was not carried out in 2000 because IBGE resources were being used to conduct the 2000 census. Figures from 2001 are expected to be published in mid to late 2002. IBGE figures on race are based on self-reporting. Survey participants place themselves in categories based on skin color, either black, brown, white or yellow. (*Ibid.* for # 8)

⁵ IBGE, 2000 Census and preliminary projection of census data.

⁶ *The World Factbook*, 2000 and 2001

⁷ Source: IBGE, PNAD Household Survey. (*Ibid.* for # 17).

Brazil 2002

<u>INDICATOR</u>	<u>2000</u>	<u>2001</u>	<u>% CHANGE</u>
16. —, female (millions)	31.3	32.8	4.8
	<u>1999</u>	<u>2000</u>	
17. Employment, civilian, total (millions)	70.0	71.7	2.4
18. —, in industry (millions)	11.8	11.6	-1.7
19. —, in export processing zones	n/a	n/a	~
20. —, in agriculture (millions)	23.4	24.2	3.4
21. —, in services (millions)	50.1	50.0	-0.2
—, in construction (millions)	7.1	6.6	-7.0
	<u>2000</u>	<u>2001</u>	
22. Unemployment rate (%) ⁸	7.1	6.2	-12.7
23. Underemployment rate (%) ⁹	17.6	17.5	-0.6
	<u>1999</u>	<u>2000</u>	
24. Labor productivity, manufacturing (% change)	n/a	n/a	~
25. Work-related accidents and illnesses ¹⁰	421	376	-10.7
	<u>1998</u>	<u>1999</u>	
26. Work days lost from industrial disputes (000) ¹¹	1,396	359	-74.3
	<u>2001</u>	<u>2002</u>	
27. Minimum wage rate (reals per month) ¹²	180	200	11.1
—, (US\$)	77	85	10.4
29. Average monthly earnings by major industry (reals) ¹³			
—, manufacturing	814	853	4.8
—, construction	538	514	-4.5
—, services	752	781	3.9
—, retail	624	627	0.5
30. Hourly compensation costs for production workers in manufacturing (US\$)	n/a	n/a	~

⁸ Source: IBGE, Monthly Employment Survey (PME). The PME is a monthly survey of approximately 38,500 households in Brazil's six largest cities (Sao Paulo, Rio de Janeiro, Recife, Salvador, Belo Horizonte, and Porto Alegre). Data from this survey are typically used as a proxy for national employment figures.

⁹ Source: Inter-Union Institute of Statistics and Socioeconomic Studies (DIEESE). These figures are based on the PED household survey carried out in metropolitan Sao Paulo by DIEESE in cooperation with the Sao Paulo State System of Data Analysis (SEADE). The PED methodology differs from the IBGE PME survey by also including underemployment and discouraged workers. Although IBGE figures may be more appropriate for international comparisons, DIEESE data better capture the reality of the Brazilian labor market.

¹⁰ Source: Ministry of Social Assistance and Welfare (MPAS).

¹¹ Source: DIEESE.

¹² The Federal minimum wage is established by the Government in April of each year. The monthly minimum wage was raised from 180 reals (US\$ 77) to 200 reals (US\$ 85) in April 2002.

¹³ Source: IBGE, PME. Figures are from January 2001 and January 2002, respectively.

Brazil 2002

<u>INDICATOR</u>	<u>2000</u>	<u>2001</u>	<u>% CHANGE</u>
31. —, (reals)	n/a	n/a	~
32. Hourly compensation costs for laborers (US\$)	n/a	n/a	~
33. —, clerical	n/a	n/a	~
34. —, mechanic	n/a	n/a	~
35. —, commercial assistant	n/a	n/a	~
36. Supplementary benefits as % of manufacturing earnings	n/a	n/a	~
37. Average hours worked per week ¹⁴	<u>1998</u>	<u>1999</u>	
—, manufacturing	42	43	2.4
—, service	42	42	0.0
—, retail	47	47	0.0
38. Unionization of labor (%) ¹⁵	15.9	16.1	1.3
39. Average personal income per year at current prices (US\$)	n/a	n/a	~
40. Avg. disposable income after taxes and withholding (US\$)	n/a	n/a	~
	<u>2000</u>	<u>2001</u>	
41. Percent of population beneath poverty level ¹⁶	32	n/a	~
42. Consumer price index (%) ¹⁷	5.97	7.67	28.5

n/a = not available

Exchange rate: US\$ 1= 2.35 Brazilian reals (March 2002); 1.954 reals (2001); 1.830 reals (2000); 1.815 reals (1999); 1.161 reals (1998).

¹⁴ Source: DIEESE, PED. Figures apply to Sao Paulo metropolitan area.

¹⁵ Source: IBGE, PNAD.

¹⁶ Source: Institute for Applied Research (IPEA). The IPEA defines the poverty line as the income level necessary to meet basic nutritional requirements. According to the IPEA, 76 percent of the poor in Brazil lived in urban areas in 2000.

¹⁷ Source: IBGE, Broad Consumer Price Index (IPCA).

SUMMARY

Brazil underwent fundamental economic and social changes during the last decade, as the economy became more open to international trade, the currency stabilized with the 1994 Real Plan, and democracy was strengthened through free and direct presidential elections. These massive changes were accompanied by growing difficulties in the Brazilian labor market. Throughout the decade, real wages declined for most workers, unemployment rose, and the share of workers in the unregistered informal sector grew sharply. These trends began to reverse themselves in 2000, as the economy recovered from the effects of the Asian financial crisis and the devaluation of the Brazilian real in January of 1999. Less than a year later, however, the effects of a domestic energy crisis, economic turmoil in neighboring Argentina, and a global downturn in economic activity dampened the demand for Brazilian workers and darkened the prospects for improvement in 2002.

According to the Brazilian Institute for Geography and Statistics (IBGE), Brazil's average unemployment rate in 2001 was 6.2 percent. Although this rate represented a drop from 7.1 percent in 2000, the decline resulted more from discouraged workers leaving the labor market than from job growth. IBGE figures for open unemployment are misleadingly low because they do not capture the endemic underemployment and the rising number of discouraged workers in Brazil. Real wages declined by nearly 4 percent in 2001, following two consecutive years of lower real wages for most workers. The average monthly wage in Brazil's six largest cities was approximately 770 reals (US\$ 328) in January 2002, and the minimum salary was raised from 180 reals (US\$ 77) to 200 reals (US\$ 85) in April 2002. These figures hide stark wage inequalities, as the wealthiest half of Brazilians earn nearly 90 percent of the total income. This inequality, which is highly influenced by differences in education, is readily apparent across region, race, and gender in Brazil.

Although the Brazilian Constitution of 1988 advanced worker rights and reduced the role of the state in certifying unions, it left intact much of the corporatist system installed by Getulio Vargas in the 1940s. The labor code remains highly detailed and relatively generous; workers are guaranteed 30 days of annual leave, an annual bonus equal to one month's salary, and severance pay in the case of dismissal without cause. The labor justice system also kept its broad powers to set the terms of collective bargaining agreements, rule strikes illegal, and adjudicate millions of claims each year. The Government has pursued a piecemeal approach to reforming the labor code which has included legislation to promote part-time work, profit-sharing, temporary work, cooperatives, and compensatory time clauses in contracts. While there is evidence that reforms to the labor justice system are having a positive, albeit small effect, most reforms designed to increase employment and reduce informality have met with little success.

Brazilian law provides for the representation of all workers, except members of the military, the uniformed police, and firefighters. The labor code establishes a hierarchical, unified structure for labor organizations in which local unions may affiliate with state federations and national confederations in their professional category. All formal sector workers are required to contribute a day's wages each year to support unions in Brazil. In turn, unions are obliged to negotiate on behalf of all workers in their professional category and geographical area, regardless of membership status. The share of the workforce that is unionized and pays voluntary membership dues has dropped during the past decade from 23 percent in 1990 to 16 percent in 1999. This decline has been caused largely by the growing share of informal sector workers, who are ineligible to join unions. The rate of unionization among eligible workers has actually grown in recent years.

Although the law makes no provision for labor centrals that include various categories of workers, four major centrals have emerged. These centrals channel much of the political activity of the labor movement, organize strikes and salary campaigns involving multiple categories, and represent workers in many governmental and tripartite councils. The two most important Brazilian centrals are the Unitary Workers Central (CUT) and the Força Sindical ("Union Force" - FS), who are engaged in a bitter rivalry on ideological grounds and a more practical struggle to affiliate new unions. The CUT's proposals on economic policy and labor law reform have consistently been at odds with the government's approach, and the CUT cooperates closely with the opposition Workers' Party (PT). The FS is second in size to the CUT, and it promotes greater cooperation with public authorities and has supported most government efforts to change the labor code. In spite of their differences, the CUT and FS have cooperated in recent years on a number of occasions, including a successful unified salary campaign in 2000 and joint efforts to increase the minimum wage and reduce the legal work week.

The Constitution provides for the right of formal sector workers to engage in collective bargaining, and the practice is widespread. In 2000, more than 18,000 agreements were registered with the Ministry of Labor and Employment (MLE). The 1980s witnessed an increase in the importance of collective bargaining in Brazil, as unions and management broadened the content of negotiated agreements from primarily wages to include health, safety, hours, work processes, and job security. Rising unemployment and increasing competition in the 1990s, however, hardened the negotiating environment and led to stagnation, or even reversal, of many of these gains. In spite of the ubiquity of collective bargaining, the labor relations system remains fragile because of the fragmented labor movement, limited representation at the firm level, and a frustrated culture of negotiation due to the normative power of the labor courts.

Brazilian workers, with the exception of the military, uniformed police, and firefighters, are guaranteed the right to strike. A strike may be ruled "abusive" by labor courts if a number of conditions are not met, such as maintaining essential services during a strike and notifying employers at least 48 hours before the beginning of a walkout. Although Congress has not passed complementary legislation establishing the legality of strikes in the public sector, the Government has not interfered with the right of most government workers to strike. DIEESE reports that the number of strikes has diminished in recent years, from 1,250 strikes in 1996 to roughly 550 in 1999. Major private sector strikes in 2001 were conducted by transportation workers, metalworkers, truck drivers, and petroleum workers. Numerous public sector unions at the federal, state, and local levels also held strikes to demand salary increases. Civil and uniformed police also walked out in 2001 in several states for higher wages and safer working conditions. DIEESE reports that most strikes were motivated by salary demands in the early 1990s, but the majority of strikes in the latter half of the decade were undertaken to protest management's failure to comply with labor rights or negotiated agreements.

Brazil's social safety net includes an unemployment insurance system (UI), guaranteed severance payments for laid off workers (FGTS), and social security. UI provides laid off workers who meet a number of conditions with three to five monthly payments based on a share of previous salaries. These payments are supplemented by a public system of severance payments for many workers who are laid off without cause. Brazil's social security system covered nearly 20 million beneficiaries in 2000, representing only 57 percent of the eligible population. In the same year, the social security system ran a deficit of more than 10 billion reais (US\$ 4.2 billion). The Government has prioritized reforming the social security system, but meaningful changes have proven elusive. Although private pension plans have grown recently, most firms continue to lack such schemes and pension funds cover a small percentage of the working age population.

Among the most intractable labor rights issues in Brazil are forced labor and child labor. Forced labor occurs most frequently in remote areas of the Amazon basin, where workers are trafficked

to toil in forest clearing, logging, charcoal production, livestock raising, and agriculture. Armed guards may be used to retain laborers, but the remoteness of the locations, the use of debt, and threats of legal action or physical harm are often sufficient to prevent laborers from fleeing. Government inspection teams have liberated nearly 3,300 forced laborers since 1995, including 1,600 in 2001. Although these teams have been widely praised, their overall impact has been limited by insufficient resources, the hidden nature of forced labor, and a dismal record of prosecution in the justice system. The most important NGO addressing forced labor is the Catholic Church's Pastoral Land Commission (CPT), which estimated that 25,000 Brazilians were trapped in forced labor in 2000. The International Labor Organization (ILO) established a major program in November 2001 to promote and support forced labor eradication efforts.

Brazilian laws regarding child labor are comprehensive and advanced, and the government and civil society have made progress in reducing child labor through innovative programs. Nevertheless, more than 3.8 million Brazilian children under 16 continued to work in 1999. Children work in a wide range of rural and urban activities, including domestic service, fishing, mining, charcoal production, drug trafficking, prostitution, trashpicking, and harvesting of sugarcane, sisal, cotton, coffee, and other crops. Among other programs to reduce child labor, the government directs two programs that provide parents with a stipend if they keep children out of work and in school. These programs reached over 9 million children in 2001. In addition to these federal programs, a number of municipal governments have operated stipend programs for several years. Civil society has taken a leading role in fighting child labor, as NGOs, unions, private sector foundations, and international organizations, such as the ILO and UNICEF, have made vital contributions.

THE LABOR MARKET

Employment

The Brazilian labor force is comprised of roughly 80 million workers in a wide variety of industries and occupations. The typical Brazilian worker is male (60 percent), has not completed high school (60 percent), and is between 20 and 39 years old (51 percent). The largest share of the labor force works in the service sector (50 percent), followed by agriculture (25 percent), manufacturing (12 percent), and construction (7 percent). Regional differences in sectoral distribution are pronounced in Brazil, with the Northeast providing mostly agricultural employment and the more developed South and Southeast accounting for the vast majority of manufacturing employment. Nearly 60 percent of the work force is comprised of wage-earning employees, 23 percent are self-employed, 13 percent are unpaid family and subsistence workers, and 4 percent are employers.

The dramatic changes in the Brazilian economy over the past decade profoundly affected the labor market. The most salient trends were a rise in unemployment, a sharp increase in the share of unregistered informal sector workers, and a shift away from manufacturing to service and retail sector employment. Over the decade, the jobless rate increased from 4.3 percent in 1990 to a record-high 7.6 percent by 1999. According to the IBGE, the share of unregistered workers in the Brazilian economy grew from 42 percent in 1989 to nearly 58 percent a decade later, as more than 11 million jobs arose in the informal sector and 4.3 million formal sector jobs were eliminated. More than 1.5 million of these lost jobs were in manufacturing, as industrial employment declined each year in the decade. Women were impacted disproportionately by unemployment in the 1990s. By 1999, women made up 41 percent of the labor force, but accounted for 52 percent of unemployed workers.

The Brazilian labor market improved markedly in late 2000 after recovering from the effects of the Asian financial crisis and the instability caused by the devaluation of the real in January of 1999. Brazil finished 2000 with an average unemployment rate of 7.1 percent, representing the first decline in five years. The 2000 jobs report also featured the first uptick in manufacturing and formal sector employment in five years. Formal sector employment grew by 2.2 percent, while manufacturing firms produced job growth of 3.3 percent to meet growing domestic demand and export needs. According to the Ministry of Labor and Employment's national registry of formal sector establishments (CAGED), a record-high 880,000 jobs were added to the formal sector through the first eleven months of 2000. The IBGE reports that the resurgence in the share of formal sector market jobs continued in 2001.

Nevertheless, the labor market took a downturn in mid-2001, as a domestic energy crisis, economic strife in neighboring Argentina, and a global recession began to affect the labor market. Although the average annual unemployment rate dropped to 6.2 percent in 2001, analysts at the IBGE reported that the decline resulted more from discouraged workers leaving the labor market than from job growth. More than 830,000 people exited the labor market in 2001, compared with job creation of 106,000. While the working age population grew by 2.4 percent over the year, those employed or seeking work (the economically active population) actually fell by 0.4 percent. According to the Sao Paulo State Federation of Industry, all of the job gains in manufacturing in the state of Sao Paulo in 2000 were wiped out between June and October of 2001.

The IBGE figures measuring open unemployment do not capture the endemic underemployment and the rising number of discouraged workers in Brazil. These two factors are included in unemployment figures produced by the Inter-Union Institute for Statistics and Socioeconomic Studies (DIEESE). These figures indicate that the unemployment rate in the metropolitan area of Sao Paulo remained relatively constant between 2000 and 2001 at 17.6 percent. DIEESE also reports that nearly a quarter of the 1.6 million unemployed workers in Sao Paulo had been out of work for over a year and that the average length of a job search in Sao Paulo reached 54 weeks in January 2002, the longest ever recorded by the institute. These figures help to explain why national opinion surveys consistently cite unemployment as the nation's most urgent problem, topping crime and education.

Earnings

The earnings of most Brazilian workers have also been deeply affected by the macroeconomic transformations of the past decade. The stability brought by the Real Plan and increases in the minimum wage led to significant wage gains in the mid 1990s, but real wages have declined for most Brazilian workers since 1998. According to IBGE figures, real earnings remained relatively stable in 1998, before declining by nearly 6 percent in 1999, 1 percent in 2000, and 4 percent in 2001. Losses in 2001 were concentrated in the latter half of the year, as real median earnings in December 2001 were 9 percent lower than they had been a year earlier. Employees in the formal sector registered the largest decline in 2001 (5 percent), as many wage adjustments failed to keep pace with inflation and employers laid off workers to hire others at lower wages. Informal sector workers, who earn less than 85 percent of the income earned by registered employees, experienced a decline in real earnings equal to 2 percent in 2001. According to the IBGE, the average monthly wage in Brazil's six largest cities was approximately 770 reals (US\$ 328) in January 2002. Earnings are highest in the manufacturing sector, followed by services, retail, and construction.

The Brazilian government adjusts the minimum wage each year in April. In 2002, the minimum monthly salary was raised from 180 reals (US\$ 75) to 200 reals (US\$ 85). The Brazilian

government's Federal Register reports that this level translates into a daily rate of 6.67 reals (US\$ 2.84) and an hourly rate of 0.91 reals (US\$ 0.39). Article 7 of the Brazilian Constitution requires the minimum wage to be a living wage, capable of providing for the costs of housing, health care, food, education, clothing, transportation, and social security of an employee and his or her family. A study conducted by DIEESE in 2001 estimated that the actual minimum wage was approximately one-sixth of the amount necessary to satisfy the basic needs of a family of four in metropolitan Sao Paulo.

Approximately one in three Brazilian workers earns the minimum wage or less. The majority of these workers are employed in the informal sector, in which the minimum wage serves as an important benchmark, but generally is not enforced. Increases in the minimum salary have a significant impact on the 20 million social security recipients currently receiving monthly payments linked to the minimum wage. Because of its link to various transfer payments, increases in the minimum wage raise public expenditures. These pressures are felt acutely in local and state governments, which have their spending on human resources limited by a law to promote fiscal responsibility. The Cardoso Administration proposed a solution to this dilemma by allowing state governments to establish higher minimum salaries for workers in the private sector, with the federal minimum wage still applying to the public sector. Some initial attempts to set higher private sector wages in the states of Bahia, Rio de Janeiro, and Rio Grande do Sul were frustrated, however, by legal challenges to the new law and opposition by employer groups.

Brazil has one of the most unequal distributions of income in the world. According to the IBGE, the wealthiest half of Brazilians earn nearly 90 percent of the total income, while the bottom half earns a total slightly over 10 percent. In spite of advances in other social areas in the decade, inequality proved difficult to alter in the 1990s. The gini coefficient, which measures inequality, dropped insignificantly from 0.64 in 1991 to 0.61 a decade later. Earnings vary significantly in the different regions of Brazil. The IBGE indicates that the average wage in the industrialized Southeast is roughly twice the amount earned by most workers in the impoverished Northeast. Such regional differences have led a number of employers to shift operations from wealthier South and Southeast Brazil to the Northeast to take advantage of lower labor costs.

A number of studies have linked Brazil's income inequality to differences in levels of educational attainment. Although Brazil has reached nearly universal enrollment in primary education, differences in the quality of education continue to vary greatly among regions. In 1997, for example, 16 percent of first graders in the Southeast repeated first grade, while over 50 percent of first graders in the Northeast needed to repeat the year. Similarly, illiteracy is much higher in the Northeast (27 percent of adults) than in the Southeast (8 percent). Critics have complained that the inequalities in basic education also exist in higher education. They note that access to the best public universities, which are free, is generally limited to students from wealthier families who can afford to enroll their children in private preparatory schools.

The IBGE reports that the average white Brazilian earns more than twice as much as darker-skinned Brazilians. Part of the explanation for these differences is that whites have, on average, 2 more years of educational attainment than blacks. Also, while Brazilians of color make up roughly half of the Brazilian population, they account for only 16 percent of all college graduates. Education cannot account for all of the difference in earnings, however. A study by the government's Institute for Applied Economic Study (IPEA) indicates that, even after controlling for education and region, white workers still had incomes 20 percent higher than black employees. Educational differences also fail to account for large wage differential across gender, as women earn 60 percent of men's salaries in spite of having higher levels of average educational attainment.

Inequality in education has also contributed to employers reporting a significant mismatch between the skills of jobseekers and available jobs. One in five Brazilian workers has finished high school, and a relatively low 11 percent of 18-24 year-olds are enrolled in college. This allows a pool of millions of unemployed workers to coexist with reported shortages of qualified applicants in a number of sectors. A 2001 study by the Gartner Group, for example, indicates that 30 percent of job openings in the high-tech sectors of Brazil go unfilled due to a shortage of qualified applicants.

LABOR LEGISLATION

Overview

The standards governing the world of work in Brazil are contained in the Consolidation of Labor Laws (CLT), the Constitution, clauses in collective bargaining agreements, and labor court rulings. The backbone of the Brazilian labor code is the CLT, which includes more than 900 articles detailing norms related to occupational safety, hours, working conditions, union structure, and labor relations. The origins of the CLT date back to 1943, when President Getulio Vargas consolidated the labor laws of the time into a single piece of legislation designed to govern relations in the workplace. The model instituted by Vargas in the original CLT is a corporatist system in which the state plays a dominant role in labor relations through a comprehensive labor code, an interventionist labor justice system, and a hierarchical union structure of labor unions and employer associations (also called unions in Brazil) supported by a mandatory tax. The structure contained in the CLT allows only one union to represent workers in a given profession/sector and geographical area, legally permitted to be no smaller than a municipality. This system, which is known as *unicidade* ("one per city"), has been harshly criticized by labor leaders for limiting the ability of workers to form competing unions and freely choose the union they want to join.

The current Brazilian Constitution, which was adopted in 1988, established a number of new labor rights and reduced the role of the state in certifying unions. The Constitution shortened the legal work week from 48 to 44 hours, for example, and it limited the ability of the MLE to determine the legal coverage of unions. Article 7 of the Constitution outlines a number of labor rights, including 30 days of annual leave, payment of a minimum wage, four months of maternity leave, guaranteed severance payment in the case of dismissal without cause (FGTS), unemployment insurance, and an annual bonus equal to a month's salary, which is normally given at the end of the year (the 13th month salary). Article 7 also contains guarantees for equal pay and the prohibition of discrimination on the bases of gender, race, age, or civil status. Article 8 of the Constitution contains the broad outline of the labor relations system in Brazil, which guarantees the right of association for most categories, the right to strike (with certain limitations), protects union leaders from retaliatory dismissal, and provides for the central role of unions in collective bargaining.

The 1988 Constitution did little to alter the corporatist system installed by Vargas in the 1940s. It maintained the principle of *unicidade*, the mandatory union tax, and the hierarchical system based on local unions, state federations, and national confederations divided by category. It also concentrated negotiating rights in the hands of local unions. During the constitutional convention, this model was opposed by a number of labor leaders who argued that it created a fragmented labor movement lacking effective representation for workers at the firm level and hampered worker organization across sectors. Nevertheless, these leaders were unable to overcome the resistance of those at the convention who opposed meaningful change to the system.

The 1988 Constitution also maintained the broad powers of the labor justice system, which has its responsibilities divided into three levels. Local labor courts adjudicate individual grievances related to laws involving unfair dismissal, wage disputes, benefits, and working conditions. Regional labor courts (TRTs) handle appeals from local labor courts and rule on the legality of strikes and impasses involving collective bargaining agreements. The Supreme Labor Court (TST) is the highest court of appeals and deals with federal and institutional issues. Brazilian labor courts retain the right to establish the terms of collective bargaining agreements if either party appeals to the courts. Labor courts may also rule strikes to be illegal and order workers to return to their jobs or face hefty fines.

The detailed labor code, broad responsibilities of the labor justice system, and limited resources combine to produce a severely overburdened system with long delays. Although most complaints are resolved in the first hearing, some cases remain unresolved for 5 to 10 years due to delays in the system and numerous appeals. According to the Supreme Labor Court, over 2 million complaints have been registered in labor courts each year during the past 5 years, leading to an estimated backlog of some 2.5 million cases. An indication of the exceptionally large number of labor cases tried each year is the fact that half of Brazil's lawyers reportedly specialize in labor.

Labor law applies equally in Brazil's 14 planned export processing zones and 4 free trade zones, of which Manaus is the largest and most important.

Labor Law Reform

Efforts of the Cardoso administration to reform the labor code have focused on increasing the flexibility of the CLT and the Constitution, which the administration views as being excessively rigid and costly for employers. Government officials argue that a reduction in the social costs associated with hiring and a larger role for collective bargaining will improve job creation, decrease informality, and increase investment in Brazil. Although there is a broad consensus that the labor regime needs to be changed, little agreement exists on the main direction and sequencing of these reforms. Also, because of procedural difficulties involved in changing the Constitution, where much of the labor law is contained, the administration has adopted a piecemeal approach instead of actively pursuing a comprehensive overhaul of the system.

The early reforms of the Cardoso administration were designed to help control inflation and contain wage costs by introducing more flexibility in compensation plans. In 1995, for example, the Cardoso administration promulgated a measure that prohibited inflation indexing of wages in collective bargaining agreements. The measure also implemented a number of procedures designed to strengthen mediation services. Previously, labor courts and the Labor Ministry had responsibility for mediation in the preliminary stages of dispute settlement. Also in 1995, the implementing legislation was passed by Congress and signed by Cardoso that allowed profit sharing in firms as a way to tie wages to productivity.

With unemployment rising in the late 1990s, reform efforts shifted to creating alternative work arrangements and promoting more flexibility in hiring. One of the first of these proposals was legislation passed in 1998 that allowed firms to hire temporary workers, up to a given percentage of their total workforce. The law established incentives to promote the practice, including reductions in a firm's payroll contributions for workers hired on a temporary basis. The same law permitted collective bargaining agreements to contain clauses (*banco de horas*) that allowed firms to compensate workers in time off for overtime, instead of paying higher wage rates for work in excess of 44 hours a week. In August of 1998, the administration was also able to have most of its "package against unemployment" approved in Congress. Measures

in this group of laws expanded the range of permissible part-time work arrangements and created a program to provide training to workers who were temporarily laid off by firms.

One unsuccessful component of the 1998 package was the administration's most ambitious reform to date--Constitutional Amendment Proposal (PEC) 623. If implemented, the PEC would have limited the normative power of the labor courts, dismantled the existing union structure, and eliminated the mandatory union tax. It would also have allowed unions to form at the company level, required employee and employer unions to survive on their dues alone, and shifted the settlement of labor disputes to negotiation between parties instead of the labor courts. In essence, it would have led to an end to much of the Vargas-era union structure. Although many of the changes encapsulated in the PEC enjoyed the nominal support of labor and business leaders, the legislation failed to overcome resistance by unions and employer associations who benefit from the mandatory contributions in the current system. Others resisted by arguing that a new system needed to be put in place and strengthened before the existing structure could be dismantled and smaller unions were left to fend for themselves. In part due to this resistance and shifting government priorities, the PEC never made it out of committee and was withdrawn in late 2000.

In early 2000, President Cardoso signed two laws designed to lessen the significant delays and backlogs in the labor justice system. To reduce the number of grievances that reach the labor justice system, he signed legislation that allowed for the creation of conciliation commissions composed of employer and employee representatives. If a firm and union establish such a commission, an employee can attempt to resolve grievances in the commission; if not satisfied with the ruling, the employee is still able to file a complaint in a local labor court. Other legislation passed in 2000 enables small labor complaints to be handled with an expedited procedure known as *rito sumaríssimo*. The law authorizes claims with a value of up to approximately 40 minimum salaries to be adjudicated in one appearance before a judge within 15 days of the filing of the grievance. Appeals to the initial ruling must be resolved within 30 days.

The most recent attempt at reform is a controversial effort to strengthen collective bargaining and increase flexibility by allowing the "negotiated to supersede the legislated." In other words, unions and employers would be permitted to establish norms in collective bargaining agreements that violate a number of provisions in the CLT. The Government initially wanted to also include broader Constitutional provisions, but it was unable to reach political consensus on the measure. While the change involving the CLT is supported by the private sector and parts of the labor movement, opposition parties and most labor leaders strongly oppose the proposal, arguing that it will lead the many relatively weak unions in Brazil to relinquish rights included in the CLT. After a raucous debate, the proposal passed in the lower house in December 2001. The Senate was to vote on the legislation through expedited procedures in early 2002, but political infighting among governing coalition led the vote to be tabled. Most analysts do not expect a vote before the October 2002 national elections.

The impact of these labor reforms has been mixed. There is evidence that reforms to the labor justice system are having a positive effect. By the end of 2001, for example, over 1,000 conciliation commissions had been created, leading to the resolution of roughly one million labor complaints outside of the labor courts. Similarly, the expedited procedures instituted in 2000 have led to the more rapid conclusion of thousands of small claims in the labor justice system. Nevertheless, critics claim that these measures do not adequately address the need for additional resources in the labor justice system and for legislative changes. As a result, long delays remain common and an enormous backlog continues to exist.

Reforms designed to increase employment and reduce informality have met with less success. A 2002 study by the National Confederation of Industry (CNI) indicates that the law allowing firms to hire temporary workers led to the creation of only 41,377 jobs in its first four years of existence. The same study indicates that measures adopted in 1998 to allow laid off workers to save their jobs by receiving training has been used only 12 times, benefitting about 3,100 workers. The flex-time program (banco de horas) has been implemented more widely, but no figures are available on the program's employment impact. Labor Ministry officials fault unions who oppose these policies for the relatively low rate of adherence and the limited employment impact of reforms. Critics, who include most labor leaders, blame the legislation itself and claim that many reforms have merely codified existing practices and that the direction of reform is based on faulty assumptions about the Brazilian labor market. They argue that with remarkably high rates of annual job turnover and exploding informal sector employment, the labor market is already highly flexible and additional reforms to create flexibility will not lead to gains in wages or employment.

ORGANIZED LABOR

Background

Brazilian law provides for the representation of all workers, except members of the military, the uniformed police, and firefighters. New unions must register with the Ministry of Labor (MLE) and Employment, which accepts the registration if no objections are filed by other unions. If the MLE's Secretariat for Labor Relations judges an objection to be valid, it has the authority to deny the registration. Union organizers may challenge this decision in labor courts. The Constitution prohibits the dismissal of employees who are candidates for or holders of union leadership positions. Nevertheless, dismissals take place and those who are dismissed must often resort to a lengthy court process for relief.

Approximately 16 percent of the work force belongs to a union, but nearly twice this amount is covered by collective bargaining agreements. Unions are obliged to negotiate on behalf of all workers in their professional category and geographical area, regardless of memberships status. The share of the workforce that is unionized has dropped during the past decade from 23 percent in 1990 to 16 percent by the end of the decade. Part of this decline is due to the dramatic increase in employment in the unregistered, informal sector, where most workers cannot enjoy union representation nor fully exercise their labor rights. Discounting the growth in the informal sector, however, the percentage of unionized workers among those formal sector workers eligible to join unions has actually grown in recent years - from roughly 34 percent in 1990 to near 40 percent in 1999. Analysts credit this gain to aggressive membership campaigns by unions and growth in the number of local unions.

The Labor Code establishes a hierarchical, unified structure for labor organizations. Local unions may legally affiliate with state federations and national confederations in their professional category. Because the labor code grants negotiating authority exclusively to local unions, federations and confederations may advise unions in negotiations, but they rarely negotiate directly on behalf of workers. The labor code limits competition between unions by dictating that only one union is allowed to represent a given professional/economic category in a defined geographical area (e.g. public school teachers in the city of Porto Alegre.) The geographical area is not permitted to be smaller than a municipality, which severely limits the ability of labor leaders to organize and represent workers at the company level. As a result, employees typically have weak representation and limited bargaining power in their companies.

The MLE estimates that 11,000 labor unions exist in Brazil, but Ministry officials acknowledge that these figures are inexact and based partly on outdated records. Most of the funding for unions comes from a mandatory tax and from voluntary membership dues. The labor code guarantees public funding for labor unions, as well as for employer associations (called employer unions in Brazil), through a mandatory tax on formal sector workers and a charge on employers' revenues. The union tax is equal to one day's wages per year, with 60 percent of the total revenue going to local unions, 15 percent to federations, and 5 percent to confederations. The remaining 20 percent is allocated to Worker's Support Fund (FAT), which is used to finance unemployment insurance, job training, and other employment services. In 2001, approximately 740 million reais (US\$ 315 million) were collected to support the official union and employer structures. Another source of income for unions is the "assistance contribution," which is a share of a worker's income that goes to the union if authorized by an assembly of workers. While all workers represented by unions pay the union tax and, where it applies, the assistance contribution, union members also pay voluntary dues that typically allow them access to a number of health, legal, and other services offered by the union. Smaller, rural unions tend to be more dependent on the public tax receipts for their survival, whereas larger unions in categories with higher rates of unionization typically receive most of their revenue from member contributions. A number of unions return the tax to members and prefer to operate solely on membership contributions.

Although the law makes no provision for labor centrals that include various categories of workers, four major centrals have emerged: the Workers' Unitary Central (CUT), the Forca Sindical ("Union Force" - FS), the General Confederation of Workers (CGT), and the Social Democratic Union (SDS). In addition, a number of smaller labor centrals also exist, such as the Autonomous Workers' Central (CAT) and the Brazilian General Confederation of Workers (CGTB). Because centrals are not part of the union structure established by the labor code, they are not able to represent workers in collective bargaining and do not receive an automatic share of the union tax. Instead, centrals support themselves through the contributions of affiliated unions. Increasingly, they also receive funding from the FAT to implement job training and employment services.

Labor centrals channel much of the political activity of the labor movement, organize strikes and salary campaigns involving multiple professional categories, and represent workers in many governmental and tripartite councils. With some exceptions, labor organizations and their leadership operate independently of the government and of political parties. However, labor organizations often form alliances with political parties and social movements to carry out advocacy efforts. For example, the CUT joined with the National Conference of Bishops, the Landless Movement, and a variety of NGOs to conduct a national plebiscite on debt repayment in 2001 and to organize the World Social Forum in Porto Alegre in 2001 and 2002. Labor organizations also participate in the political process by supporting members' bids to pursue public elected office. The most notable politician to rise from the ranks of the labor movement is four-time Worker's Party (PT) presidential candidate, Luis Inacio Lula da Silva, who was a founding member of the CUT.

Brazil's two major centrals, the CUT and the Forca Sindical, are engaged in a bitter rivalry. The FS distinguishes itself from the CUT by calling itself the "central of results," a reference to what its leaders consider to be an excessive focus on ideological struggles rather than practical outcomes in the CUT. Critics from the CUT respond by accusing the Forca Sindical of compromising too easily with employers and the center-right governing coalition. This conflict has been particularly evident in the debates surrounding labor law reform. The CUT has opposed nearly every Cardoso administration change to the labor code, while the FS has supported, and even proposed, many of them. In the most recent debate over altering the labor code to allow negotiated agreements to supersede standards set in the CLT, leaders of the

FS appeared in the government's television ads supporting the initiative while the CUT held a national strike in protest.

Nevertheless, both centrals have found it advantageous to cooperate on a number of issues. They joined forces in the fall of 2000 to wage campaign in the auto sector in Sao Paulo, leading to significant real wage gains for the category. The centrals also work together to defend increases in the minimum wage, a shortened legal work week, and an end to discrimination and child labor. Finally, the centrals cooperate on most international issues, including representing workers in the labor-related institutions of MERCOSUL and the ILO. The CUT, FS, and CGT are affiliated with the ICFTU and enjoy good relations with the AFL-CIO.

Major Labor Centrals

The Unitary Workers Central (CUT)

The CUT is the oldest, largest, and most representative labor organization in Brazil. It was founded in 1983 by labor leaders following a wave of strikes and protests during the military regime to demand better working conditions and more effective representation of workers. The CUT arose in opposition to the existing union structure, which it believed was complacent and weak, and it prioritized protests and strikes as a tool to create more space in the political process for labor. Although the CUT has proposed major changes to the labor code since its founding, it has consistently opposed the federal government's approach to altering labor legislation. In its nearly twenty years of existence, the CUT has grown from 300 affiliated unions, federations, and confederations to over 3,000 today that include 7 million union members and represent more than 22 million workers.

Although it was founded by the more organized industrial unions, the composition of the CUT has changed significantly in recent years. Members now include workers from nearly every type of economic activity and every Brazilian state. Figures from the central indicate that service sector workers now account for a third of the central's members, rural workers another third, and industrial and public sector unions equally divide the final third. The largest affiliate is the Confederation of Agricultural Workers (CONTAG), which joined the CUT in 1994 and claims to represent over 15 million workers in rural unions. In addition to CONTAG, some of the most important unions include the Bankworkers Union of Sao Paulo and the Metalworkers Union of the Sao Paulo ABC region. This latter union produced the CUT's first two presidents and, despite its declining size, still wields considerable power in the massive central.

At the CUT's seventh Congress in August 2000, the CUT elected its first president to come from a union other than the ABC Metalworkers. Joao Felicio, an art history professor, was chosen by the 2,267 delegates at the Congress to lead Latin America's largest labor central. Felicio represents the changing profile of union leaders in the CUT. He is a college-educated professor who has more experience in classrooms and meeting rooms than on the factory floor. Nevertheless, Felicio has strong roots in the labor movement and solid links to the Brazilian left. Before becoming Secretary General of the CUT in 1997, he served as president of the Sao Paulo State Federation of Teachers (APEOESP) from 1987 to 1993. As president of APEOESP, Felicio was an effective organizer who led numerous strikes. Felicio has been active on the Brazilian Left for decades, and he is a founding member of the Worker's Party (PT).

At the same Congress, Monica Valente was elected to become the first woman to serve as vice-president of a major Brazilian labor central, Carlos Alberto Grana of the ABC Metalworkers was chosen to be Secretary General, and Joao Vaccari Neto became the Treasurer. Vaccari, who

was president of the Sao Paulo bankworkers union and the previous CUT vice-president, was the other major presidential candidate heading into the seventh Congress. Both candidates belong to the relatively moderate Articulation faction of the CUT, which has run the central since its founding. Articulation has close links with the PT, while smaller factions of the CUT are aligned with other parties on the Brazilian left, such as the Communist Party (PCdoB) and the Unified Workers Socialist Party (PSTU). In a primary election among the 1,266 delegates from Articulation, Felicio topped Vaccari, virtually assuring his victory in the overall election. Felicio fought off three challengers in the general election to receive 57 percent of the overall vote.

The election results meant that Articulation continued to control the majority of the CUT's executive board and nearly all of the most important positions in the central. The leadership positions of the CUT are distributed in proportion to the share of votes received by each faction, which gave Articulation virtual veto power in the CUT. This veto power continues to stir resentment in the other factions, which argue that their 43 percent combined total of the overall vote should guarantee them more weight in CUT decision making and at least a few of the more important leadership positions. Although the Congress was filled with bitter battles between opposing factions, the differences were not strong enough to split the central. As they have in the past, the different factions united following the congress to deal with the difficult economic and organizing environment faced by the CUT.

The basic text approved by the Congress called for a continuation of militant opposition to the Cardoso Administration, including the administration's attempts to alter the labor code. The plan of action included advocating a shorter work week, constructing an effective public employment system, and educating union members to fight for improved wages and working conditions. In addition, some elements of the CUT are attempting to create national unions to increase labor's bargaining power. The plan of action also indicated a continuing shift in focus for the central from specific membership concerns to citizenship issues, such as fighting child labor and improving the Brazilian health and educational systems. The CUT currently operates two employment agencies and seven training facilities. It also provides economic research and legal services to members.

In the international arena, the CUT takes the most active role of any of the Brazilian labor centrals. It opposes Brazil's participation in the proposed Free Trade Area of the Americas (FTAA), preferring instead to strengthen labor's involvement in MERCOSUL through its participation in the MERCOSUL Social and Economic Forum and Subgroup 10 on Labor Relations. The central also supports a national plebiscite on the FTAA, the inclusion of social and labor clauses in international trade agreements, and a renegotiation of Brazil's external debt. Its marching orders coming out of the seventh Congress can be summed up by its adopted slogan: "Fora FHC e FMI" - Enough of President Cardoso and the IMF.

The CUT often plans its political activities through the National Forum for Struggles, a body that works to coordinate the actions of the CUT, the landless movement (MST), leading NGOs, and major political parties on the Brazilian left. The CUT works especially closely with the opposition Workers' Party (PT) in its political activities. Although nominally independent from the PT, the CUT's public positions tend to mirror those of the PT and most of the CUT's leadership belongs to the party. Nevertheless, CUT policies are established through a democratic process within the central, and PT party leaders play no role in influencing these positions. In fact, there have been a number of important instances in which PT legislators have voted against policies favored by the CUT.

The General Confederation of Workers (CGT)

Three years after the founding of the CUT, a group of labor leaders opposed to the CUT's confrontational approach formed the General Confederation of Workers (CGT). The CGT emerged from the other wing of the labor movement apparent in the first attempts to unite in 1981 against the military regime at the historic National Conference of the Working Class (CONCLAT). The wing that founded the CGT favored dialogue with the government and the private sector, and it emphasized the key role of federations and confederations, as opposed to the CUT's focus on grassroots organization. The founding convention of the CGT in 1986 included 4,000 union delegates and 1,200 labor organizations. The CGT changed shape again in 1991, when several leaders and unions split to form the Força Sindical. Over the years, the CGT has continued to value dialogue, but it has also taken part in numerous strikes and protests to advocate issues and oppose government efforts to alter the labor code.

Today, the CGT includes over 1,000 affiliated unions, federations, and confederations representing more than 6 million workers across Brazil. The most important member union of the CGT is the electrical workers union of Sao Paulo, but the central also has important representation in the telecommunications, cable television, high technology, and transportation sectors. Antonio Carlos dos Reis (Salim), who presides over the Sao Paulo Electrical Workers Union, was reelected as president of the CGT at its 6th Congress in May 2000. CGT positions under Salim continue to vary between support for government policies in certain areas and cooperation with the CUT in opposing various attempts at labor reform by the Cardoso Administration. The CGT was the first Brazilian central to join the ICFTU, and it continues to actively participate in a variety of international bodies. The central also runs training programs and an employment center.

Força Sindical (Union Force)

Divergences within the CGT led to the creation of the Força Sindical (FS) in 1991. Led by the president of the metalworkers union of Sao Paulo, Luiz Antonio de Medeiros, a number of industrial, commercial, and service sector unions split from the CGT to build a "central of results" based on cooperation and dialogue with government and private sector representatives. Since its founding, the FS has grown in numbers and importance to become Brazil's second largest labor central. The central represents more than 1,500 affiliated unions with a base of 12 million workers, and it boasts two of the nation's largest unions - the Metalworkers Union of Sao Paulo and the Commercial Workers of Sao Paulo. Industrial workers make up a third of the employees represented by the FS, with service sector workers comprising around 20 percent, and rural and commercial workers each accounting for another 10 percent. The FS started with a heavy representation in the southeast of Brazil, but it now has representation in a wide number of regions and sectors.

The president of the Força Sindical is Paulo Pereira da Silva (Paulinho), who like Medeiros before him, presided over the Sao Paulo Metalworkers Union. At the 4th FS Congress in July 2001, Paulinho won his second uncontested election in a row. The Congress also produced a list of priorities for the central that included promoting a 40 hour work week (currently 44), reversing the decline in real wages for its members, ending mandatory military service for Brazilian youth, and fostering job creation. On international issues, the FS did not decide to support or oppose an FTAA, but rather to work to increase its participation in discussions on the agreement.

The FS participates in politics by electing labor leaders to political posts and carrying out a dialogue with parties and social actors. Unlike the CUT, which is closely linked to the PT,

leaders of the FS belong to a variety of parties. For example, Paulinho currently serves as the vice president of the Brazilian Labor Party (PTB). FS founder Medeiros is a federal representative for the Liberal Party (PL). The FS has a much closer relationship with the Federal Government than the CUT. It endorsed the winning presidential candidates in every election in the 1990s and backed many of the efforts of the government to modify the labor code. Nevertheless, the FS has sometimes take an independent course from the Cardoso administration and has recently opposed the governing coalition by participating in an unsuccessful campaign to raise the minimum wage to the equivalent of 100 dollars and by pushing for a reduction in the workweek from 44 to 40 hours.

In its first decade of existence, the Forca Sindical claims to have created a new model for a labor central, one which consists of promoting social programs and policies aimed at reaching all Brazilians, not just union members. This often has been done with public funding, as in the case of the FS employment and training center in Sao Paulo, which is Brazil's largest. The center has placed more than 150,000 people in jobs over the past three years. Similar examples include child labor projects, land resettlement initiatives, and a low-income housing program. In 2001, the FS sponsored the world's largest May Day event, attracting over 1.5 million people to watch a variety of popular acts and win raffled items. Much of the event was funded by corporate partners. The 2002 May Day event is to be more overtly political, and it is expected to include the participation of major presidential candidates.

The Social Democratic Central (SDS)

The SDS is the newest labor central in Brazil. It formed in 1997 when Enilson Simoes de Moura (Alemao) led a number of FS affiliates to leave the central following sharp disagreement over the strategies chosen by the FS leadership to pursue their pragmatic approach to trade unionism. Moura currently serves as president of the SDS. In its first 5 years of existence, the SDS claims to have affiliated over 1,800 labor organizations that represent nearly 14 million workers. As with the other centrals, no independent confirmation of these figures exists. The largest share of the SDS affiliated unions are in the service sector. The SDS was founded on the principle of labor citizenship, and the central seeks to cooperate with social movements and runs a number of social programs, including a job center in Rio de Janeiro. Moura has no political party affiliation, but press reports indicate that the SDS is closely linked with the Social Democratic Party (PSDB), the party of President Cardoso. The SDS has not affiliated with the ICFTU.

LABOR RELATIONS

The Constitution provides for the right of workers in the formal sector to engage in collective bargaining, and the practice is widespread. In 2000, more than 18,000 agreements were registered with the Ministry of Labor and Employment. Unions are obliged by law to negotiate on behalf of all registered workers in the professional category and geographical area they represent, regardless of whether an employee pays voluntary membership dues to the union. Unions typically negotiate with employer associations that represent companies with employees in the same area and occupational category, although they may also negotiate agreements that apply only to workers of one or more firms. The right to engage in collective bargaining is largely concentrated in local unions, and negotiations typically take place on or around a given date each year (referred to as the "base date.") Agreements have a limited life of one to two years, after which a new contract needs to be negotiated. Negotiated contracts do not automatically carry over until a new contract is signed.

In 1995, the Cardoso administration promulgated a provisional measure that allowed for mediation of wage settlements if the parties involved so desired. Previously, labor courts and the MLE had responsibility for mediation in the preliminary stages of dispute settlement. Although labor court decisions still set wages in many disputes, parties now may choose mediation as an alternative. Free mediation services are provided by the Ministry of Labor and the Public Ministry of Labor. Unions and employers may also choose a private mediator from a registry kept by the Labor Ministry. According to MLE data, mediation services were used in over 10,000 collective bargaining agreements in 2000.

The 1980s witnessed an increase in the importance of collective bargaining in Brazil, as unions and management expanded the content of negotiated agreements from primarily wages to include health, safety, hours, work processes, and job security. Rising unemployment and increasing competition in the 1990s, however, hardened the negotiating environment and led to stagnation, or even reversal, of many of these gains. A number of new laws that allowed more flexible work arrangements also put unions on the defensive in the 1990s, and the fact that some of these reforms were to be implemented at the firm level, where labor representation is weak, further complicated the bargaining environment.

In spite of the ubiquity of collective bargaining, the labor relations system remains fragile. Labor leaders complain, for example, that the labor code has created a fragmented labor movement consisting of thousands of small local unions that are unprepared to effectively represent their members. Because the official structure creates a hierarchy based on sector and restricts representation at the firm level, union efforts to unite and increase bargaining strength are often frustrated. *Unicidade* also limits freedom of association and eliminates competition between local unions that could reward stronger unions. Finally, the culture of negotiation is weakened by the normative power of labor courts, which are able to set contract terms if either party appeals to the courts. Although these appeals are less common than they used to be, analysts report that the power of the courts often deters good-faith bargaining as negotiators hope for a better settlement in the courts.

Labor leaders in the most organized sectors, such as metalworking and banking, are sophisticated and aggressive in defending wages and working conditions. Even these sectors, however, have experienced difficulty maintaining the wages and jobs of their members in recent years. According to DIEESE, which tracks wage settlements in many of the most important industries and regions of Brazil, most unions were unable to wrest real wage gains from employers in the mid to late 1990s. Unions fared better in 2000 than in most years, however, as more than half of the 375 agreements tracked by DIEESE included real wage gains. These gains were based on rising economic activity, cooperation among competing labor centrals in salary campaigns, and pent-up demand after several years of declining real wages. The positive conditions carried over into the first half of 2001, but a major energy crisis, an economic slowdown, and instability in Argentina limited wage increases in agreements in the second half of the year. As a result, DIEESE reports that more than half of the collective bargaining agreements it tracked in the second semester of 2001 failed to keep pace with inflation.

The Constitution guarantees workers the right to strike, with the exception of the military, uniformed police, and firefighters. Enabling legislation passed in 1989 stipulates that a strike may be ruled "abusive" by labor courts if a number of conditions are not met, such as maintaining essential services during a strike and notifying employers at least 48 hours before the beginning of a walkout. Congress has yet to pass complementary legislation establishing legal protection for strikes in the public sector. In practice, the Government has not interfered with the right of most government workers to strike. Employers are prohibited from hiring substitute workers during a legal strike and from firing workers for strike-related activity. In

practice, employers do fire strike organizers for reasons ostensibly unrelated to strikes, and legal recourse related to retaliatory discharge is often a protracted process.

Major private sector strikes in 2001 were conducted by transportation workers, metalworkers, truck drivers, and petroleum workers. Numerous public sector unions at the federal, state, and local levels also held strikes to demand salary increases. According to a DIEESE report in June of 2001, the Federal Government has not given a general salary increase to federal employees in six years, resulting in a significant erosion of real earnings. Public sector unions who struck during the year include social security workers, professors, judicial workers, and teachers.

Civil and uniformed police also walked out in 2001 in several states to demand salary increases and safer working conditions. While civil police are allowed to form unions and conduct strikes, uniformed police are prohibited from organizing. In the state of Bahia, an illegal strike by uniformed police in July led to rioting and looting, which ended only after the government sent in federal troops to regain control. Growing labor unrest among the police has prompted the government to consider legislation that would limit association among uniformed police and the unionization of civil police.

Overall, the number of strikes has diminished in recent years. According to DIEESE, there were approximately 550 strikes in 1999, compared with 1,250 strikes recorded in 1996. Data from the regional labor court of Sao Paulo indicate that there were 84 strikes in metropolitan Sao Paulo and the surrounding region in 2000, the lowest number in a decade. According to DIEESE, strikes have taken on a more defensive tone in the late 1990s. While most strikes were motivated by salary demands in the early 1990s, the majority of strikes in the latter half of the decade reportedly were carried out to protest the failure of firms to comply with labor rights or negotiated agreements.

During demonstrations and other activities, labor leaders and activists have been targets of violence. On May 18, 2000, Sao Paulo military police fired tear gas and rubber bullets into a crowd of striking workers from a coalition of 25 unions linked to the CUT. More than 20 strikers were injured. Strikers reacted by throwing rocks and cans at police, injuring five policemen. Also, the ICFTU reported that police fired on striking workers at a government-run company in Brasilia in December 1999, killing public sector worker Jose Ferreira da Silva and injuring 20 others. Although police said that they used only tear gas and rubber bullets, live ammunition was found in Ferreira's body.

The Catholic Church's Pastoral Land Commission (CPT) reports that labor leaders are victimized by a campaign of violence in rural areas, with perpetrators enjoying relative impunity. Of the 1,222 killings of rural labor leaders and land reform activists registered by the CPT since 1985, trials were held in only 85 of the killings and only 8 people were convicted. According to the CPT, 18 rural labor leaders were murdered through the first 8 months of 2001. CPT leaders in the state of Para claim that most of these murders are carried out by hired gunmen working in the service of estate owners. They note that those who hire gunmen have become more adept at hiding their participation and that gunmen increasingly target labor leaders with significant experience in organizing and leading land occupations.

Para continues to be the state with the most violence directed at labor leaders. Killings in the state during 2001 include the death of Ademir Alfeu Federicci, a leader of the Federation of Agricultural Workers in Para, who was killed at his home in August by an unknown assailant. Protests led by labor leaders, the landless movement, and the CPT called for police to investigate the crime as a political assassination due to Federicci's public denunciations of official corruption. In November of last year, Jose Dutra da Costa, leader of the rural workers union of Rondon do Para, was killed by two gunmen in front of his home. Costa had been on a list of labor leaders in the region reported by the CPT to be "marked for death" for eight years.

SOCIAL SAFETY NET

Legislation provides for an unemployment insurance system (UI), a public severance account for laid off workers, and social security. The unemployment insurance system is run by the Brazilian Ministry of Labor and Employment, which is also charged with coordinating job training, labor inspection, employment services, and representation in international labor organizations. To qualify for UI, a worker must have been employed for at least six months and have been fired without just cause. UI pays eligible workers between three and five monthly parcels that range in value from the monthly minimum wage to approximately 340 reais (US\$ 150). The value and duration of the benefits vary with the previous salary and length of time in the job. Registered workers who earn less than two minimum wages per month (360 reais - US\$ 153) are also eligible to receive one payment equal to the monthly minimum wage per year. Both the UI system and the annual bonus are financed with resources from the Worker Support Fund (FAT), a public fund which is financed primarily by a tax on firm revenues and part of the mandatory union tax. It is coordinated by a tripartite committee (CODEFAT) linked to the MLE.

In addition to UI, formal sector workers have the right to an individual account that serves as a guaranteed severance fund (FGTS). The FGTS program was instituted in 1966, but it was first made mandatory for formal sector workers in the 1988 Constitution. Each account is comprised of monthly deposits equal to 8.5 percent of a worker's salary, which are made by employers and held at the Caixa Economica Federal (CEF), a federal bank. These accounts are adjusted for inflation each month, and they earn an additional 3 to 6 percent interest. Workers may only withdraw funds from their accounts in a few circumstances, such as for the purchase of a new house, serious illness, or retirement. Employees may also withdraw the funds when they are fired without just cause. In this case, employers must pay a fine equal to 50 percent of the total value of the account to the worker. Although this fine was designed to promote job stability, it has had little success in reducing the high rate of turnover in the Brazilian labor market.

The FGTS became the focus of a major debate in 2000 after the Supreme Court ruled that workers needed to be compensated for the government's failure to properly adjust the values of FGTS accounts during currency stabilization plans in 1989 and 1990. After contentious negotiations between the Labor Ministry, unions, and business representatives, a plan was presented by the Ministry to compensate workers for losses in their accounts. The plan raised taxes on employers from 8 to 8.5 percent and increased the fine for dismissal without cause from 40 to 50 percent of the FGTS account for a period of five years. The plan also required the minority of FGTS account holders who would have received an adjustment of more than 2000 reais (US\$ 830) to accept a reduction of between 8 and 15 percent in their overall payment. Although the plan was opposed by Brazil's largest labor central (CUT) and most of the business community, the plan easily passed the Congress and was signed into law in June 2001, by President Cardoso. Workers have the right to adhere to the terms of the plan or to try to reach a different outcome by appealing to the labor courts.

Brazil's social security system is coordinated by the National Institute for Social Security (INSS) of the Ministry of Social Security and Assistance (MPAS). In 2000, the INSS included 19.6 million Brazilians in its system, approximately 800,000 more than the number of beneficiaries in 1999. The number has grown steadily from 12.5 million just a decade ago. Nevertheless, the MPAS estimates that social security still covers only 57 percent of those eligible to receive

it, leaving roughly 18.8 million Brazilians outside of the system. In sectors like agriculture and civil construction, only a third of all workers participate in the program.

The INSS provides benefits to retirees and their survivors, as well as to people with disabilities and the indigent over 67 years of age. The amount of the benefit is typically determined by the value and duration of INSS contributions. In October of 2001, the average monthly payment was approximately 390 reais (US\$ 166). In the case of the impoverished disabled and elderly, the value of the payment is equal to one minimum salary. There is evidence that a rise in the minimum wage has a significant impact on reducing poverty among social security recipients, especially in impoverished rural communities in which social security payments are among the major sources of income in the communities. A study by the MPAS indicates that the social security system helps to keep approximately 18 million Brazilians above the poverty line.

The system is funded by contributions from employers and active employees, and the federal government is responsible for covering operational deficits. In 2000, the social security system had a deficit of more than 10 billion reais (US\$ 4.2 billion), slightly up from the 1999 figure. Nevertheless, 2000 was considered a good year for the INSS because it represented the first decline in the deficit relative to GDP in a number of years. Analysts at INSS credit the improvement to a rise in formal sector employment during 2000. These trends reversed themselves in mid 2001, and the deficit in the social security system relative to GDP climbed again.

In addition to the effects of economic fluctuations, the deficit has been caused by a number of structural trends. One of the most important trends has been the rise in the share of the workforce in the unregistered informal sector. Because a mere 19 percent of informal sector workers contribute to INSS, it is estimated that the lost annual income to the system caused by the informal sector is equal to roughly 3.1 billion reais (US\$ 1.3 billion). As in many other countries, social security has also been affected in Brazil by the growing proportion of retirees in relation to the contributing population. A third reason for the deficit is drain on the system created by a very generous retirement package for certain groups of public sector workers, including the military and members of the judicial, legislative, executive branches who have passed civil service exams. Although public sector workers represent only 11 percent of the overall number of social security beneficiaries, they receive almost 45 percent of total benefits.

To address these structural trends, the Government has prioritized the reform of the social security system. A major reform occurred in November 1999 when the INSS changed its criteria for determining social security benefits. The new methodology uses an actuarial table that incorporates duration of contribution, previous salary, and life expectancy at retirement to determine benefits. To retire and receive full benefits, men must now contribute to the system for 35 years, and women for 30. The new regulations maintained the retirement age for contributors of 65 years for men and 60 for women (60 and 55, respectively, for rural workers).

In the first two years following the reform, the changes led to higher average age of retirement and a subsequent rise in revenue for the system. Nevertheless, meaningful changes to the social security system have proven elusive for the administration, and the deficit in social security is expected to remain for the foreseeable future.

Although private pension plans have grown impressively in recent years, most firms continue to lack such schemes and pension funds account for a relatively small share of the overall economy. In 2000, the assets of Brazilian pension funds totaled approximately 140 billion reais (US\$ 58 billion), equal to roughly 13 percent of Brazilian GDP. Pension funds cover around 6.5 million Brazilians, including retirees, active workers, and dependents. Pension funds are divided into two separate systems: one that is operated by banks and insurance companies to provide pensions to interested parties and a "closed" system which is only open to employees of the public and private companies which operate them. One such closed scheme is PREVI, Banco do

Brasil's pension fund, which is Latin America's largest. The closed system controls approximately 92 percent of the total savings of the private pension system. According to a 2001 report by the MPAS, a number of the nation's pension funds are running actuarial deficits as changing demographics and lax oversight have led to financial difficulties. To correct these problems and increase the stability of private pensions, the government is working on new regulations to improve oversight and increase transparency of pension funds, while fund managers are implementing cost-cutting measures and shifting from defined-benefit to defined-contribution schemes.

The MPAS is also responsible for coordinating a worker compensation fund for contributors who suffer debilitating workplace injuries. Beneficiaries receive a monthly stipend equal to half of their previous salary, which ends on the day they receive retirement benefits or return to work. More than 340,000 workplace injuries, including approximately 4,000 fatalities, were registered with the MPAS in 2000. Fundacentro, part of the Ministry of Labor, sets occupational health and safety standards, which are consistent with internationally recognized norms. Employees or their unions can file claims related to worker safety with regional labor courts, although in practice this is frequently a protracted process. The law requires employers to establish internal committees for accident prevention in workplaces. It also protects employee members of these committees from being fired for their activities. Nevertheless, such firings do occur, and legal recourse often takes years to reach resolution.

SELECTED WORKER RIGHTS ISSUES

Forced Labor

Forced labor and the trafficking of workers for compulsory labor are illegal in Brazil, but both practices continue to exist in many parts of the country. The crime of "reducing a person to conditions analogous to slavery" is punishable with a penalty of up to 8 years in prison. Legislation passed in December 1988, increased penalties for various crimes related to forced labor, such as recruiting, transporting, or obliging workers to incur debt as part of a forced labor scheme. The Government may legally appropriate lands on which forced labor has been found, but this law is rarely applied.

Forced labor occurs most frequently in the rural north and center-west of Brazil, in activities such as forest clearing, logging, charcoal production, livestock raising, and agriculture. The practice typically involves young men who are recruited in poor communities and transported long distances to work in remote areas where escape is difficult. Once at the worksite, they are forced to labor in often brutal conditions until they are able to repay inflated debts related to the costs of travel, tools, clothing, and food. Armed guards may be used to retain laborers, but the remoteness of the location, confiscation of documents, and threats of legal action or physical harm are often sufficient to prevent laborers from fleeing. Dire poverty and a lack of viable alternatives lead many workers to repeatedly fall prey to trafficking and forced labor schemes.

Federal Government efforts to eliminate forced labor are coordinated by the Executive Group to Combat Forced Labor (GERTRAF), which was established in 1995. The Ministry of Labor coordinates GERTRAF, and it includes representatives from seven ministries, unions, employer groups, and NGOs. The enforcement arm of GERTRAF is the Special Group for Mobile Inspection, which is coordinated by the MLE's Secretariat for Labor Inspection. The mobile unit operates in secret to avoid alerting estate owners and ranch managers to planned actions, and it conducts raids under the protection of federal police officers. When mobile inspection teams

find workers in conditions of forced labor, they levy fines on estate owners and require employers to provide back pay and benefits to workers before returning the workers to their municipalities of origin.

Since its inception in 1995, the mobile group has liberated nearly 3,300 forced laborers. The activities of the mobile unit in 2001 greatly exceeded results from any previous year of operation, as the mobile group liberated approximately 1,600 workers and levied fines upwards of 1.1 million reals (US\$ 468,000). In 2001, the mobile inspection unit of the MLE found 21 children under 16 working on ranches where forced labor was found. Most instances of forced child labor in Brazil occur when children accompany parents who are trapped in forced labor schemes on remote worksites.

Although the Mobile Unit has been widely praised, its overall impact on the incidence of forced labor has been limited by insufficient resources, the hidden nature of forced labor in remote areas, and a dismal record of prosecution in the justice system. In spite of the nearly 3,300 instances of forced labor discovered by the inspection teams since 1995, only 17 people have been arrested and only two have been sentenced. Prosecutions have been hampered by numerous factors, including disputes over legal jurisdiction, political pressure at the local level, and a lack of coordination between the police, the judiciary, and prosecutors. Witnesses' fear of retaliation and the fact that police generally do not conduct criminal investigations when accompanying labor inspectors on raids also complicate attempts to build a solid evidentiary case.

The mobile unit receives many of its tips from the Pastoral Land Commission (CPT), an NGO linked to the Catholic Church that tracks instances of forced labor across Brazil and implements programs to combat it. The CPT reported over 2,000 cases of forced labor in 2001. The state of Para continues to contain the most reported forced labor, and the CPT reports that the practice increased in the state in 2001. CPT representatives also note that these figures significantly understate the actual number of workers trapped in conditions of forced labor in the country. In 2000, for example, the CPT estimated that roughly 25,000 Brazilians were toiling in conditions amounting to forced labor.

The International Labor Organization established a major program in Brazil in November 2001, to support forced labor eradication efforts. The project, which is funded by the United States Department of Labor, aims to improve inter agency cooperation, strengthen enforcement, train government representatives, and fund research and a public awareness campaign. In its first few months of operation, the program had already sponsored training programs and interagency meetings, helping to provide an impetus for renewed attention to forced labor in Brazil.

Child Labor

Brazilian laws regarding child labor are comprehensive and advanced, and the government and civil society have made expanding access to education and reducing child labor a priority. Nevertheless, child labor continues to be a serious problem. The government amended the Constitution in December 1998 to raise the minimum working age from 14 to 16 and the age at which apprenticeships may begin from 12 to 14 years of age. The law requires permission of parents for minors to work as apprentices, and working minors must attend school through the primary grades. The law bars all minors under 18 from work that constitutes a physical strain or from employment in nocturnal, unhealthy, dangerous, or morally harmful conditions.

The incidence of child labor has dropped significantly in recent years. According to the IBGE, the number of working children under 16 fell from 5.1 million in 1995, to 3.8 million in 1999. The IBGE also reports that approximately half of child laborers receive no income, two thirds are boys, and 90 percent are found in the unregistered informal sector. The highest incidence of child labor is found in the northeast of Brazil, where half of all child workers are employed. Because of the hidden and informal nature of child labor, children are especially vulnerable to workplace accidents and often work in dangerous conditions.

A report by the Ministry of Labor and Employment indicates that children work in about 100 rural and urban activities. Common rural activities include fishing, mining, raising livestock, charcoal production, and harvesting sugarcane, rice, manioc, sisal, tobacco, cotton, coffee, citrus fruits, and a variety of other crops. In urban areas, children are found in shoe shining, transportation, construction, restaurants, street peddling, prostitution, and drug trafficking. According to the government's Institute for Applied Economic Research, there are around 800,000 girls between the ages of 10 and 17 working as domestic servants. UNICEF estimates that 50,000 children are employed as trash pickers in garbage dumps.

The MLE is responsible for inspecting worksites to enforce child labor laws. Nearly all inspections of children in the workplace are driven by allegations and tips from workers, teachers, unions, NGOs, and the media. Inspectors recently gained an expanded mandate to inspect informal sector establishments, but they remain unable to enter private homes and farms, where much of the nation's child labor is found. In most cases, inspectors attempt to reach agreements and have employers desist from labor law violations before levying fines. As a result, fines are rarely applied for child labor violations. Labor Ministry inspectors often work closely with prosecutors from the Public Ministry of Labor (PML), who have broader powers and are able to impose larger fines.

The major governmental initiatives to reduce child labor in Brazil are based on a stipend model. The Program for the Eradication of Child Labor (PETI), for example, provides cash stipends to low-income families who keep their children in school and out of work activities. Because the public school day in Brazil lasts only 4 hours, PETI also offers complementary activities to children during nonschool hours to keep them out of work situations. PETI has grown from assisting about 3,700 children in 2 states in 1996 to roughly 600,000 children in all 26 states and the federal district by the end of the year. The program focuses on removing children from work activities considered to be among the most hazardous by the government, such as charcoal production, sugar cane harvesting, horticulture, brickmaking, mining, trash picking, shoe shining, and street peddling.

The other major program of the Federal Government to prevent child labor is the Bolsa Escola (School Stipend) program. The program provides mothers of low-income families with monthly stipends equal to 15 reais (US\$ 6) per child between 6 and 15 years old, up to 3 children. To receive the stipend, children must maintain a school attendance rate of 85 percent. The Bolsa program is coordinated by the Ministry of Education (MEC), but responsibility for day to day management falls largely on municipal governments. The Government intends to reach over 10 million children next year, making Bolsa Escola the largest program of its kind in the world. At the end of 2001, the program provided stipends to the mothers of approximately 9 million children in over 5,000 municipalities. Critics have expressed concerns that the program's rapid implementation, lack of comprehensive oversight, and small stipend value may compromise its ability to discourage child labor. In addition to the federal program, a number of similar stipend programs in about a hundred municipal governments, including Belem, Campinas, Sao Paulo, Belo Horizonte, Manaus, Olinda, and Recife.

In December 1999, the Government ratified ILO Convention 138 dealing with the minimum age for work and Convention 182 on the eradication of the worst forms of child labor. Following a

long internal discussion about which minimum age Brazil would submit to the ILO regarding convention 138, the Government submitted 16 as the minimum age in June of 2001. In March of 2000, the Ministry of Labor established a tripartite commission that produced a list of roughly 80 activities to be considered worst forms of child labor. These activities, which include cutting sugar cane, applying pesticides, and driving tractors, are now prohibited to all workers under 18. Convention 182 entered into force in Brazil in February 2001.

Civil organizations have been leaders in Brazil's struggle to end child labor. The National Forum for the Prevention and Eradication of Child Labor, for example, has been fundamental in coordinating the diverse child labor eradication efforts. The Forum was established in 1994 and currently has chapters in every state and over 40 institutional members from government, unions, employers, and NGOs. Another important network is formed by the Centers for the Defense of Children and Adolescents (CEDECA) that are active in many parts of the country. These centers report violations of children's rights and implement child labor eradication programs. Also, the News Agency for Children's Rights closely tracks stories in the media, publishes studies, and gives awards to media outlets that effectively cover child welfare issues.

Representatives from the private sector and unions also play a major role in fighting child labor. The toy industry's ABRINQ Foundation for Children's Rights operates a labeling program that identifies companies with child-friendly policies and a commitment to eliminate child labor in the production chain. The foundation also fosters pro-child initiatives through its awards to organizations, journalists, and mayors. A similar labeling program in the footwear industry is coordinated by the Pro-Child Institute in the state of Sao Paulo. The Institute has helped to significantly reduce instances of child labor in footwear production in the state, and it plans to expand to other regions and industries. In addition, all major labor centrals have made firm commitments to eradicate child labor by reporting violations and by implementing programs to educate union members about the hazards of child labor.

International organizations have also been instrumental in Brazil's success over the past decade. Since 1992, the ILO has been engaged in fighting child labor in Brazil through its Program on the Elimination of Child Labor (IPEC). Among other programs in Brazil, the ILO is currently coordinating a program to reduce the incidence of child labor in domestic service and commercial sexual exploitation. In addition, the ILO is supporting a child labor survey by Brazil's national statistics agency that will provide the first comprehensive overview of child labor in Brazil and serve as a baseline for measuring the success of Government programs. UNICEF has also been active for many years in Brazil, and it currently supports over 200 programs to improve the lives of children. Since June of 1999, for example, UNICEF has helped to remove over 13,000 children from work in trash dumps and place them in schools, in part by providing scholarships to families and helping adults in those families find other forms of income generation.

Finally, USAID has built on 9 years of experience working with at-risk children in Brazil to begin to implement a strategy that targets some of the worst forms of child labor through education initiatives. USAID works with governmental and non-governmental organizations in northeast Brazil and in Brasilia, focusing on four of the worst forms of child labor in urban areas: child prostitution, street peddling, garbage picking, and domestic service. It also supports the National Forum on the Prevention and Eradication of Child Labor, as well as a network of over 100 partner NGOs, including Projeto Pommar, which assists at-risk children in Brazil's northeast, and Mission Child, which analyzes and operates stipend programs to remove children from work activities and keep them in school.

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