



Cornell University  
ILR School

Cornell University ILR School  
**DigitalCommons@ILR**

---

Articles and Chapters

ILR Collection

---

2004

# Unions, Markets, and Democracy in Latin America

Maria Lorena Cook

*Cornell University*, [mlc13@cornell.edu](mailto:mlc13@cornell.edu)

Follow this and additional works at: <http://digitalcommons.ilr.cornell.edu/articles>

 Part of the [International and Comparative Labor Relations Commons](#), and the [Unions Commons](#)

Thank you for downloading an article from DigitalCommons@ILR.

Support this valuable resource today!

---

This Article is brought to you for free and open access by the ILR Collection at DigitalCommons@ILR. It has been accepted for inclusion in Articles and Chapters by an authorized administrator of DigitalCommons@ILR. For more information, please contact [hlmdigital@cornell.edu](mailto:hlmdigital@cornell.edu).

---

# Unions, Markets, and Democracy in Latin America

## Abstract

[Excerpt] In the 1990s scholars of Latin America moved from a concern with democratization to a focus on the implementation of market economic reforms. With this shift, the appreciation of labor unions' value to society was lost. Whereas earlier analyses of democratic transitions recognized organized labor's important role in bringing an end to dictatorships, later studies of market reform viewed labor organizations as either obstacles to be overcome, "losers" to be compensated, or simply irrelevant.

Perhaps more important than scholarship's neglect of labor unions is the neglect that is reflected in policies toward labor in the region. Economic and labor market policies as well as labor law reforms have left workers and labor organizations more vulnerable without creating adequate protections, bolstering labor rights, or democratizing industrial relations systems. I argue that these policies have had significant costs that in turn affect two important contemporary debates: (1) how to strengthen labor rights in the global economy; and (2) how to consolidate and deepen democracy in Latin America.

## Keywords

Latin America, labor unions, market reform, labor market, labor law, industrial relations

## Disciplines

International and Comparative Labor Relations | Unions

## Comments

### Suggested Citation

Cook, M. L. (2004). Unions, markets, and democracy in Latin America [Electronic version]. In R. Marshall & J. Getman (Eds.), *The future of labor unions: Organized labor in the 21st century* (pp. 237-254). Austin, TX: Ray Marshall Center for the Study of Human Resources, Lyndon B. Johnson School for Public Affairs, University of Texas.

### Required Publisher's Statement

© Lyndon B. Johnson School for Public Affairs. Reprinted with permission. All rights reserved.

## Chapter 10

# Unions, Markets, and Democracy in Latin America

by Maria Lorena Cook

### Introduction

In the 1990s scholars of Latin America moved from a concern with democratization to a focus on the implementation of market economic reforms. With this shift, the appreciation of labor unions' value to society was lost. Whereas earlier analyses of democratic transitions recognized organized labor's important role in bringing an end to dictatorships, later studies of market reform viewed labor organizations as either obstacles to be overcome, "losers" to be compensated, or simply irrelevant.'

Perhaps more important than scholarship's neglect of labor unions is the neglect that is reflected in policies toward labor in the region. Economic and labor market policies as well as labor law reforms have left workers and labor organizations more vulnerable without creating adequate protections, bolstering labor rights, or democratizing industrial relations systems. I argue that these policies have had significant costs that in turn affect two important contemporary debates: (1) how to strengthen labor rights in the global economy; and (2) how to consolidate and deepen democracy in Latin America.

### Labor, Democracy, and Rights in Latin America

In Latin America labor movements were at the forefront of struggles to expand citizens' rights. Scholars have noted the central role of the Latin American working class in shaping regime dynamics and in advocating for democracy, in contrast to the similar role played by the middle class in Europe.<sup>2</sup> Through these struggles, labor movements expanded workers' rights, forged political alliances, and eventually shaped national politics in fundamental ways. The incorporation of labor into politics in the early to mid-twentieth century set a pattern of political involvement and partisan alliance in Latin America that continues to this day.

Labor's support for democracy was evident at several points in the region's history. Workers and union leaders suffered at the hands of repressive regimes, and unions spearheaded societal protests against dictatorships, most recently in the 1980s in the Southern Cone (Argentina, Brazil, Uruguay, and Chile). In this way, labor organizations in Latin America typically expressed the broader interests of society and saw political engagement as essential to protecting these interests.

Labor legislation often reflected this political relationship between labor and the state. At the beginning of the twentieth century, labor legislation in Latin America was aimed at protecting individual workers from employer abuse and arbitrariness. The idea was that workers were entitled to "job security." Hence, laws set relatively high dismissal costs in the form of severance formulas linked to length of employment. The gap between law and reality is well known in Latin America and in most developing countries. Nonetheless, the intent of the legislation reflects a particular political and economic period in which expanded industrialization led to a more inclusive approach toward workers and unions. Political coalitions consisting of national industrialists and unions led by populist politicians also emerged in this period. Examples include Peron in Argentina, Vargas in Brazil, and Cardenas in Mexico.

Nonetheless, the state's protective attitude toward workers reflected a paternalistic rather than a democratic and rights-based state. This was especially evident in the state's treatment of trade unions. As Bronstein has indicated, collective rights have always been somewhat limited in Latin America.<sup>3</sup> Collective rights legislation has been characterized by a high degree of state intervention in an effort to control the political radicalism and militancy of workers' organizations. In those countries where workers' organizations were weak in the early part of the century, these laws tended to be more intrusive. Where unions were already stronger and especially where they formed part of the populist coalition, as in Argentina and Mexico, laws reflected a combination of opportunities for state intervention and considerable privileges and advantages for unions. However, in no country can we say that a liberal rights regime—with full union autonomy, free collective bargaining, and the full right to strike—took shape.

Not until the post-authoritarian period of the late twentieth century do expanded rights for workers begin to appear in countries undergoing democratic transition. Again, where unions are relatively strong and have played an active role in the transition, they also tend to have a greater capacity to mobilize for stronger bargaining, organizing, and strike rights. Such was the case in Argentina, where all of the rights and privileges removed during the period of military rule were restored, and Brazil, where the 1988 constitution established a liberal labor rights regime, at least on paper. In other cases, however, expanded union rights were granted earlier, during leftist governments that were ultimately overthrown by coups or overtaken by conservative governments that dismantled the prior regimes. This was the case in Peru, where labor laws were very favorable toward unions under the left-wing military government in the 1970s; and also in Chile, where the Allende government's pro-labor reforms succumbed to the Pinochet dictatorship's restrictive Labor Plan.

After the repressive dictatorships of the 1960s and 1970s, the democratic transitions in the 1980s greatly expanded labor's sphere of action. These periods of democratic transition and consolidation involved rebuilding institutions, securing political stability, and restoring civil and political rights to citizens. Democratic governments found themselves under pressure to restore collective labor rights and protective employment laws that were removed during anti-labor military regimes, or else to extend rights and protections not present before. Reforms undertaken during democratic transition periods tended to reinforce or extend protections to individual workers and to restore or bolster collective rights, such as the right to strike, to organize, and to bargain collectively.<sup>6</sup> (This expansion of legal labor rights during democratic transitions occurred to varying degrees in Argentina, Brazil, Chile, Paraguay, Uruguay, Guatemala, and El Salvador.)

Even where democratic governments might have resisted implementing labor-friendly reforms, they were often confronted by the relative social and political strength of organized labor.<sup>7</sup> In general, trade unions also enjoyed greater legitimacy in this period due to their persecution under the military and their role in the transitions to democracy.<sup>8</sup> Governments faced a societal consensus that saw favorable policy reforms as labor's due. This consensus often had a stronger bearing on labor reform outcomes than strict partisan concerns about labor constituencies.

The premium placed on political stability and accommodation during democratic transition produced a generally favorable political context for labor, even when the economy was unfavorable. Strike activity increased throughout the region during democratic transitions.<sup>9</sup> Labor protest against structural adjustment policies was also high. Labor was able to engage in a traditional sectoral strategy—strike activity—but it was also able to operate in a number of arenas made available by the return of democracy. This included political party activity, working through congressional allies to defend its interests, participating in demonstrations with other sectors of civil society, engaging in tripartite accords or direct negotiations with the state, and in some cases, collective bargaining at the level of the firm or economic sector. In this context, organized labor was not only better able to advocate for labor rights, but it was also free to protest such policies as stabilization measures that it would later find more difficult to resist. Such relative freedoms secured labor's commitment to democracy, even if labor movements vigorously protested against their democratic governments for the shortcomings of the economy and other failures.<sup>10</sup>

## **Market Reform and Unions**

The late 1980s and 1990s ushered in a period of market economic reform in the region. The policies associated with this reform wave, known generally as the "Washington Consensus," involved trade liberalization, privatization, deregulation, fiscal discipline, state retrenchment, and related market-oriented changes in social policies and institutions, such as tax reform.<sup>11</sup> These reforms had a dramatic impact on the

economic fortunes of workers. They also affected the political climate for unions in ways that contrasted sharply with the democratic transition period.

Most economic reforms had the effect of generating higher levels of unemployment.<sup>12</sup> Trade liberalization and privatization both produced layoffs, the first in noncompetitive sectors and the second associated with the restructuring that often accompanied the sale of state enterprises to private hands. Economic growth also remained disappointing in the 1990s after a devastating economic performance during the 1980s debt crisis. Modest economic recovery in the mid-1990s was followed by declines in most of the region, with the corresponding implications for employment. In some countries, such as Mexico, the economy simply could not grow fast enough to absorb new labor market entrants.<sup>13</sup> In others, like Brazil, unemployment increased despite economic growth in the mid-1990s.<sup>14</sup> The impact of emerging-market financial crises on the region during the mid-to-late 1990s was also substantial (Mexico, Asia, Russia, Brazil). Argentina's economy saw its worst depression ever at the beginning of the new century and its future remains uncertain. In short, after initial optimistic predictions of growth produced by structural reforms in the early 1990s, the region remains far from economically stable.

Along with higher levels of unemployment, employment itself generally became more precarious. The number of people working in the informal sector—always relatively high in the region—increased in many countries in the 1990s.<sup>15</sup> Levels of social protection also fell as the percentage of workers who contributed to social security declined. Unemployment insurance is not available in many countries, and where it exists, it is very limited. Inequality also increased in this decade, and indeed was cited as one of the most disturbing developments of the reform movement of the 1990s. On average, real minimum wage levels remained 50 percent lower in 2001 than they were in 1980.<sup>16</sup> Poverty also increased in the region, most notably in ravaged countries like Argentina, which had been known for a strong middle class, and in war-torn Colombia. By virtually every indicator conditions were worse by the end of the 1990s than they were at the beginning of the decade.

These structural economic changes and their labor market effects weakened labor organizations by reducing their membership,<sup>17</sup> increasing labor force segmentation, and creating an adverse environment for strikes. The strengthening of business actors, who were often favored by trade liberalization, privatization, and flexible labor market policies, diminished unions' relative power in society.

The political context was also unfavorable. Market rationality and efficiency rather than rights and democracy became the watchwords of government. Unions were portrayed as privileged special interests that sought only to protect their access to sources of corruption and wealth for union leaders or as market-distorting institutions that pushed up wages at the expense of the vast majority excluded from the formal labor market. This portrayal of unions in turn legitimized policies and legal reforms that sought to remove or reduce unions' sources of power.

## Labor Reform: The Neoliberal Agenda

In general, where re-democratization occurred it also ushered in a return to or an expansion of collective labor rights. However, these still fell short of a fully liberal rights regime, and state intervention and control often remained part of the system. In Mexico, where the majority of the labor movement strongly defended the status quo, this was especially true, even under the opposition government of Vicente Fox. In most cases, however, the labor market reforms that accompanied or followed economic reforms aimed to further constrain labor unions and collective rights. These market-era reforms represented a shift in direction away from individual and collective workers' rights toward cost-cutting and employer flexibility. It was in part this change in direction that generated the virulent reactions and counterattacks on the part of the strongest labor movements in the region. Also notable was the fact that this shift away from rights was taking place in countries that were already democratic; most were in their second or third rounds of democratic government. Yet creating a more democratic labor law regime or industrial relations system was rarely cited as a goal of these governments.

Indeed, labor may be at a special disadvantage in democracies where economic transitions *preceded* democratic transitions. In these cases labor may move into the democratic transition weakened by the structural economic changes of neoliberal reform as well as by legal-institutional changes imposed during dictatorship, as in the Chilean case. In addition, the core task of democratic governments is complicated by a commitment to preserve economic reforms implemented earlier, which often conflicts with the expansion of labor rights. While democratization may generate a public debate about expanded labor rights, as in contemporary Mexico, and even lead to movement in this direction, as in Chile, the constraints on a fuller expansion of labor rights and on unions' ability to mobilize for these tends to be greater.

Labor reform has been seen as a logical next step to the market-oriented reforms implemented throughout the region.<sup>18</sup> In the current economy, firms and employers are obliged to adapt their production and workforce to the fluctuating demands and competitive pressures of the market. In this context, laws dating from early in the last century that protect job stability—and hence constrain employers and firms' adaptability—are seen as anachronistic. This has meant that the focus of reform in recent years has centered on what has been called "flexibility": lowering employer costs and increasing employers' ability to manage their workforce and adjust rapidly to fluctuating conditions.

Advocates of flexible labor reform insist that revision of national labor codes is essential to address such problems as unemployment, segmented labor markets, inequality, poverty, and global competitiveness. According to these advocates—which include international financial institutions such as the Inter-American Development Bank and International Monetary Fund—"rigid" labor legislation, especially obstacles to dismissals, constrains job creation, encourages capital substitution for labor, and promotes the informal sector. Such employment constraints, together with cen-

tralized forms of collective bargaining and monopoly union representation, drive up wages and other labor costs associated with formal sector workers past their "market price." This distorts the labor market and encourages its segmentation into the "privileged" few who enjoy labor protection legislation and the majority, or at least large minority, who lack protections and higher wages. Since many of those excluded from formal sector work are women, young people, and the poorest workers, these distortional effects on the labor market contribute to widening inequality among different sectors of the population.<sup>19</sup>

This analysis of the effects of Latin American countries' labor law "rigidity" has led to a variety of policy prescriptions and recommendations. In order to address restrictions on forms of hiring and dismissals, suggested changes include limiting severance payments in dismissals or converting these to deferred-compensation plans; permitting part-time and temporary employment contracts; lowering the amounts employers must pay in levies and contributions, sometimes requiring changes in the way social security is funded and administered; allowing employers to replace striking workers; revising the definition of "just dismissal" to include economic distress of the firm; pension reform; revising minimum wage regulations; and instituting some form of unemployment insurance.<sup>20</sup>

The recommended policies that are most likely to adversely affect unions include decentralizing collective bargaining to the firm or enterprise level; forbidding the closed shop and encouraging the "right-to-work" (the prohibition of laws or contract clauses requiring workers to be members of a union, join the union, or pay union dues as a condition of employment); giving individual employment contracts priority over collective agreements; restricting the scope of "bargainable" subjects in collective negotiations; expanding categories of employees that are excluded from unionization (such as "confidential" and supervisory personnel); permitting striker replacements; prohibiting solidarity strikes and boycotts; and expanding the definition of "essential services" with restrictions on strike and bargaining rights.<sup>21</sup>

In this formulation of labor flexibility, cost reduction is favored over labor rights.<sup>22</sup> To the extent that workers' rights enter into the equation, they are cast in individual rather than collective terms. Workers have a right to employment, which is obtained both by enforcing the law and, ironically, by easing constraints on employers to dismiss. Workers also have a right to protection from the abusive practices of unions, which are depicted as unrepresentative and undemocratic institutions.<sup>23</sup> (This view of unions provides the justification for policies advocating "right-to-work" and free association as an individual choice.) Because it ignores the importance of conflict in industrial relations and the power imbalance between workers and employers, and because it favors individual over collective rights, this neoliberal view is one of rights without the power to defend them. Neither strong unions nor a strong state are seen as necessary to provide counterweights to capital.

This individualistic view of rights also informs flexibility advocates' view of unions. Union gains are posited in zero-sum terms, with the costs borne by informally employed

or unemployed workers, women, and youth, rather than as potential vehicles for redistribution with an overall positive effect on wages, working conditions, and labor standards. Despite the evidence that union density (and hence an important component of union strength) has declined dramatically in the region, unions are still seen as "unnaturally" strong by those advocating flexible labor market and wage policies.

### **Labor Law and Labor Rights**

Although the flexibility agenda has defined much of the debate surrounding labor reform in the region, it has not determined all the labor law changes that have occurred. This section looks at how actual reforms implemented in the region have affected both individual and collective labor rights through a variety of mechanisms. I also move beyond the focus on legal changes, however, to suggest that the *lack* of reforms in some areas has also had a negative impact on labor rights.

Most changes in labor law have affected individual employees. Here, however, the picture is mixed. In the early part of the reform period many labor law changes extended protections, especially in the areas of maternity and paternity leave and other protections for women workers. However, reforms also lowered existing protections for workers in an effort to make hiring and firing more flexible and less expensive for employers. Among reforms affecting individual workers were longer probationary periods in employment, lower severance pay formulas, flexible work schedule and compensation arrangements, and special exemptions from labor regulation for small- and medium-sized enterprises, which employ the majority of workers in many countries.

Another common reform implemented throughout the region was the expansion of temporary work contracts, with lower dismissal costs and reduced payroll taxes. Fixed-term contracts were adopted in Colombia, Ecuador, Peru, Panama, Chile, and Argentina (although in Argentina these were later rescinded in a 1998 law). In some countries the number of workers subject to fixed-term employment contracts expanded tremendously. In other cases, such as Brazil, the number of fixed-term contracts was limited and subject to collective bargaining, which explained their more limited use.<sup>24</sup>

Both legal reforms and market conditions have served to increase labor market flexibility, even though the specific results have not always been intentional or the most efficacious from the point of view of society's demands for skill enhancement and training. The high percentage of workers laboring in the informal sector attests to this. Yet, in few cases has increased flexibility been accompanied by enhanced social protection, such as adequate unemployment insurance or training and employment information programs. The result is that workers find themselves forced to move within increasingly unstable labor markets without access to adequate social protection programs or effective training. Flexibility and weak social protection combined to produce the "worst of both worlds," according to the International Labor Organization (ILO).<sup>25</sup>

The problem is more complex than providing "mobility with a safety net." Indeed, multilateral financial institutions have long called for enhanced levels of protection to accompany the more flexible labor markets they have promoted.<sup>26</sup> The failure in the region has been an inability to approach the problem by creating employment regimes based on coherence in labor relations, welfare policies, and labor law and that involve participation by trade unions. In one study, social protection levels were higher and more effective in those countries in which unions have been able to participate in the design and implementation of programs. Likewise, levels have been higher where state involvement in devising relevant and coordinated institutions has been strong. In this case, Brazil and South Korea ranked more highly in terms of quality of social protection than did either Argentina or Chile, even though Chile is often presented as a model of such reform in the region.<sup>27</sup>

Legal reforms have also affected collective rights. Some reforms have specifically aimed to reduce collective protections, such as reforms that decentralize collective bargaining, or those that constrain the right to strike. In the latter case, constraints range from laws requiring government authorization of strikes, to the allowing of striker replacements, to expanded definitions of what sectors are included among "essential services" whose workers may not strike. In most cases these changes have been implemented by executive decree under conditions certified by the president to be of "necessity and urgency." In some countries, such as Argentina, there was widespread sentiment that this executive privilege had been abused. Other reforms affecting collective rights include laws that allow new collective agreements to contain lower standards than in previous contracts. These changes were passed in Brazil and Venezuela, and with restrictions in Argentina.

Rather than appear as the target of legal changes, collective rights have arguably been eroded more by individual employment reforms and by the lack of action to strengthen collective rights protections, either via reform of existing laws or through new laws that expand rights. For example, the increase in workers employed on temporary contracts has lowered union membership rolls and further weakened union influence in the workplace. New workers hired in this way are difficult to organize, given their temporary status. The expansion of probationary periods has a similar effect, since employers have an incentive to dismiss workers before they become entitled to an indefinite contract, with the higher severance payments these imply.

Most governments in the region have focused their efforts on lowering employer costs and generating greater flexibility in hiring and firing for employers than they have in implementing parallel policies to guarantee protected mobility for individuals or in strengthening collective rights. The latter could free labor organizations to play greater roles in addressing labor market and employment problems. This refusal to expand labor rights may be due to several factors. One is mistrust between governments and trade unions that, while historic, has also been reinforced by economic reforms that weaken and marginalize unions. Employer resistance coupled with the

international financial institutions' (IFI) general inability to contemplate unions as part of the solution have also contributed to this climate of mistrust.

A more fundamental issue is that of union power. Most governments and employers would prefer to have weaker unions than strong ones, because they would prefer to implement policies and run businesses with as little possible resistance and compromise. Even though the industrial working class has historically been weak in Latin America, unions have exercised disproportionate political power via their concentration in export industries and urban centers and with their political alliances. Recent economic trends and market-oriented reforms have helped to weaken unions' economic clout, although in some countries the political alliances remain significant, especially during elections. Indeed, where labor-political alliances remain a factor, compromise on labor reforms tends to be higher, often countering IFI and employer demands.<sup>28</sup> Nonetheless, in a regional context in which union density has declined and unions have lost influence, government authorities seem intent on hastening this trend rather than reversing it.

This perspective explains the absence of proactive collective rights protections in the region during the recent market reform period. Despite a recent labor reform that offered some improvements, Chile's labor laws continue to exclude technological improvements from among the subjects of collective bargaining and continue to make multi-employer bargaining difficult in practice.<sup>29</sup> Chile is also one of the few Latin American countries to permit striker replacements. Collective bargaining coverage is also limited in several countries (e.g., Peru and Chile). The right to bargain remains restricted for a variety of sectors, including domestic and agricultural workers and public administration, as does the right to strike, either through "essential services" exemptions or lack of government authorization.

The right to organize and freedom of association also face constraints. In Mexico tripartite labor boards and collusion among "official" unions, employers, and government continue to restrict independent unions from organizing and gaining tide to the collective agreement. In the *maquiladora* sector in particular, blacklists and dismissals of union activists continue to make organizing difficult. Given the expansion of this sector as a proportion of overall Mexican industrial employment, these constraints are of special concern. Indeed, restrictions on organizing and bargaining predominate in free trade zones throughout the region.<sup>30</sup> In Peru workers encounter obstacles to forming unions due to laws passed under President Fujimori. In Argentina labor organizations that oppose the Peronist-linked *Confederación General de Trabajadores* (CGT) have trouble gaining a *gremial* government designation that would allow dissident unions to command resources to benefit their organizations and their members.

Unions in some countries face even more fundamental challenges. In Venezuela the government of Hugo Chavez tried to restructure labor organizations, labeling them part of the corrupt *ancien régime*. In Colombia trade union leaders ate targets of guerrilla and paramilitary attacks in the ongoing civil war. Indeed, as political instability grows in the region, trade unions come under increasing threat.

The most recent labor reform efforts by governments in the region have done little to remedy these gaps in rights protection. The Mexican congress will soon consider a labor reform that does nothing to protect the organizing and bargaining rights of unions but instead establishes greater flexibility for employers while reinforcing corporatist union privileges.<sup>31</sup> The Chilean government of Ricardo Lagos passed a series of small improvements to legislation that largely dates from the Pinochet era. Even these changes, however, did not address the core constraints on bargaining and strikes dating from the dictatorship.<sup>32</sup> President Fernando de la Rúa in Argentina tried to reverse earlier labor protections negotiated between then-president Carlos Saul Menem and the CGT in 1998, which led to general strikes and a senate scandal involving bribes in exchange for voting for the labor reform. This led the vice-president to resign in protest and eventually contributed to the fall of the president in December 2001. In Brazil union formation and bargaining laws have remained untouched, although plans to revise these have existed for years. Unions in Brazil have argued that such reforms should only take place in the context of guarantees for unions that might otherwise be weakened by reform. Meanwhile, intense union competition and employer whipsawing create precarious conditions for trade unions.

As rights are eroded in the formal sector, the proportion of individuals who lack legal protections has grown. Of special concern is the role of women, whose increased labor force participation has not been matched by access to protection. Despite strengthened gender discrimination laws in many countries, enforcement has been weak. In the *maquiladora* sector, for instance, strong maternity rights provisions have led employers to avoid hiring pregnant women and to discourage pregnancy during employment. Other proposed solutions to the problem of female employment have also fallen short. Special temporary contracts for women have not solved the problem of legal protection, since they usually entail limited benefits. The more common approach to this problem has been to propose greater labor market flexibility so as to expand possibilities for formal sector employment to women, youth, and other excluded sectors. Unfortunately, this has frequently taken the form of lowering protections and security for all workers without generating additional employment.

The definition of the problem and the nature of the solutions have turned worker organizations into enemies of these reforms. Unions have fought most individual and collective reforms aimed at flexibilizing the market or lowering protections. Although unions have rarely been successful at blocking reforms, they have often secured compromises. Typically these compromises have involved accepting concessions that lower protection for individual employment in exchange for defense of existing provisions on collective rights, or for participation in the way individual reforms are implemented in workplaces. Unions typically defended those legal provisions that would ensure organizational survival.<sup>33</sup> In this way, unions were often forced to adopt defensive postures that fed critics' claims of unions' narrow interests. They were rarely brought into the process to discuss labor market problems via consultation mechanisms, even though several countries had used such mechanisms in the past. In those

cases where governments did set up tripartite for labor law discussions, these often took place in settings that were unfavorable for unions.

Few people would argue that reform of the region's labor laws is unnecessary. However, the goals of many of the reforms and the ways in which these are carried out pose a problem for labor organizations. Most reforms in the region are aimed at overcoming union resistance to labor market policies by further weakening unions. Moreover, the focus is on "flexible" labor markets, often to the detriment of coordinated labor market institutions. These approaches limit prospects for policies that both ensure individuals' "secure mobility" through the labor market and that protect collective rights.

### **The Cost of Weak Unions**

Two contradictory trends have emerged. On the one hand, the world community has conceded a greater role to the ILO in overseeing labor rights compliance in member nations, trade agreements have increasingly adopted labor standards provisions, and general agreement on basic labor rights has emerged. On the other hand, market reforms and labor law and policy changes in Latin America have produced what we might call a "labor rights deficit" in the region. As a consensus emerges in international debates on the global economy about the importance of international labor standards and rights, the downward pressure on national laws persists. As national reforms continue to weaken unions, the danger is that unions' ability to leverage international standards in national politics will disappear.

For international standards and rights to have teeth, reasonably strong labor advocates must exist *within* countries. Unions have traditionally played this role in Latin America, having filed most of the region's complaints to the ILO.<sup>34</sup> The weakening of unions has a cost in terms of protection for labor rights on the ground and for the credibility of an international commitment to labor rights. Yet it is not enough for unions to be willing or able to pursue complaints through international channels. They must also be able to wage national and even international campaigns to exert pressure on governments and legislatures. In short, they must be able to wield power at the national level.

This brings us to another cost of weak unions: a "democracy deficit." Although unions have been criticized for being "insiders" whose insistence on preserving their gains produces costs for the rest of society, they have played an important role in supporting democracy, improving working conditions, and defending broader citizens' rights. As unions' size and political power become increasingly limited, it is not difficult to imagine that this might have an impact on the quality of democracy and even on support for democracy in the region.

The weakening of unions affects democracy in several ways. Increased job insecurity, declining union density, and constraints on bargaining, strikes, and union formation limit workers' voice at the workplace. Union voice has become increasingly marginalized in national policy as governments have pursued anti-labor policies and

social concertation (tripartite consultation) mechanisms have been abandoned or become ineffective. The passage of laws that effectively weaken unions has also affected democratic institutions, such as legislatures. In several countries, presidents resorted to decrees to implement reforms, bypassing legislative debate. The International Monetary Fund's strong pressure on governments to pass reforms has also distorted democratic processes, as some governments have in turn pressured congressional representatives to vote in favor of reforms even to the extent of resorting to illegal measures, as in Argentina. These developments are another expression of the recognized tension between economic reform and democracy in developing countries.<sup>35</sup>

Some observers of the region's politics have argued that as unions have declined, other groups have emerged to fill the void in representing society.<sup>36</sup> These groups include informal sector workers, social movements in urban neighborhoods and among peasants and indigenous groups, and even nongovernmental organizations. However, while these groups may command attention during certain key political moments, labor organizations remain among the most stable, organized, and consolidated representative organizations in society. Most are reasonably democratic, many have longstanding ties with political parties, and many are recognized and experienced interlocutors with employers and the state. Labor organizations are adept at operating in the arena of institutional politics. Although this has often been used against them—critics may argue that unions are "too much" linked with traditional parties and a corrupt or inert bureaucracy—institutionalism is also an important feature of stable democracies.<sup>37</sup>

Recent political developments in the region illustrate unions' continued relevance despite the widespread trend of union weakening. Unions have often served as the proverbial canary in the mine, warning against economic hardship and social injustice. Unions' resistance to elites' economic and social policies is not necessarily a sign of obstinate refusal to change, but rather an indicator that such changes—or the processes by which they are reached—are seen as unjust, giving voice to the sentiments of a majority of the population, most of whom are not organized.

Labor unions were recently at the forefront of major political disputes in Venezuela,<sup>38</sup> Argentina, Ecuador, and Bolivia that dealt with threats to democracy and popular rejection of market reforms. In Brazil a former trade union leader who advocates expanded social policies and limits to neoliberalism attained the presidency with the support of the unions. Similarly, countries with weak unions have been less successful at confronting threats to democracy: Peru under Fujimori, Colombia, and most Central American nations. These cases underscore the importance of strong unions for safeguarding democratic processes in the region.

## **Conclusion**

In this paper I have argued that economic, institutional, and legal reforms in Latin America have undermined organized labor's ability to play critical roles in contemporary society. These roles include supporting democratic government, improving the

quality of democracy by providing a voice for poor citizens, and advocating for labor rights protections. The need for strong workers' organizations is as evident today as it was at the beginning of the twentieth century.

The instability generated by market reforms and widespread popular rejection of neoliberal policies have produced a volatile political situation in the region that contrasts sharply with sunny predictions of stable democracy and economic growth in the 1990s.

Political leaders are vulnerable in Venezuela and Peru, and popular revolts threw out presidents in Argentina, Bolivia, and Ecuador. Contrary to earlier claims that the entire region had converged around liberal capitalism, the leaderships of Venezuela, Ecuador, Argentina, and Brazil today broadly reject the policies of the "Washington Consensus." Colombia remains mired in conflict generated by guerrilla war, paramilitary armies, and drug mafias. Even Mexico and Chile, stable regimes by comparison, have made limited advances in social reform and expanded democracy despite the promise of their new leaderships. Mercosur (the "Common Market of the South") is at a standstill.<sup>35</sup> Economic growth in the region has been stagnant. The American war and occupation in Iraq will produce more negative economic effects in Latin America as the effects of recession in the North and oil price increases hit the region. In this context, strong workers' organizations remain more, not less, important for advancing social justice, providing a voice of conscience, and stabilizing democracy in the region.

The fate of Latin American trade unions also affects the U.S. labor movement. Clearly, weaker unions in Latin America lead to lower labor costs for companies operating in the region and greater flexibility for employers to dictate working conditions. This situation only accelerates current low-wage trends in some of the poorest countries, particularly in Central America and the Caribbean and in free trade zones throughout the region. U.S. unions will have an even harder struggle to stem the exodus of jobs to developing countries and to fight against exploitative working conditions abroad.

Weakened unions would also affect the U.S. labor movement through the loss of strong allies to advocate for improved labor rights in the global economy and for changes in the global agenda, particularly through hemispheric agreements such as the Free Trade Area of the Americas (FTAA). The importance of this issue is evident from the example of Brazil, where the labor movement there stands to influence the terms of FTAA negotiations through its relationship with the new president. Strong labor advocates in other countries, and a strong relationship with those advocates, can only help the U.S. labor movement as it pursues its interests in a changing world.

## **Notes**

1. See Nelson, 1994; Cortazar, Lustig, and Sabot, 1998; and Williams, 2001. For a review of some of this literature, see Geddes, 1995. For an exception in the treatment of unions, see Murillo, 2001.

2. Collier and Collier, 1991; Reuschmeyer, Stephens, and Stephens, 1992; Collier and Mahoney, 1997.
3. Bronstein, 1995, 1997.
4. Despite the progressive nature of much labor legislation, there are constraints on the fulfillment of the law due to problems of enforcement of political discrimination, such as when opposition or nonaffiliated unions attempt to avail themselves of legal protections. Employers find loopholes in the law or through the courts in order to avoid some of the costs imposed by the legislation. At the same time, an ever-smaller proportion of the workforce is covered by labor legislation since employment has increasingly expanded in the informal sector. These factors limit the effectiveness and protective reach of labor legislation in the region.
5. Cordova, 1989.
6. Bronstein, 1995, Cook, 1998.
7. Even where unions were weak democratic transitions still brought pressures for labor rights expansion in labor codes. Stronger individual employment protections and collective rights were incorporated into the new labor codes and Constitution of Paraguay in the early 1990s despite the weakness of the labor movement. In Guatemala and El Salvador pressure from the International Labor Organization and the United States (through the Generalized System of Preferences) compensated for the weakness of labor movements in those countries (Fruendt, 1998).
8. Valenzuela, 1989.
9. Cox Edwards, 1997, 135.
10. McGuire, 1997.
11. Williamson, 1994.
12. The rate of urban unemployment in Latin American countries as a whole ranged from 5.5 percent to 6.5 percent between 1990 and 1994. By the end of the decade it reached levels close to 8.4 percent, and 9.4 percent at the beginning of 2002 (ILO, 2002:10). For another "gloomy" overview of unemployment in the 1990s, see Duryea et al., 2003.
13. Duryea et al., 2003.
14. Guimaraes and Comin, 2000.
15. ILO, 1999.
16. ILO, 2002:12.
17. Trade union membership fell by between 1 and 29 percent during the 1990s, depending on the country (ILO, 2002: 27).
18. Lora and Pages, 1997; Edwards, 1995.
19. Marquez and Pages, 1998; Inter-American Development Bank, 1998.

20. For arguments in favor of labor market flexibility and for recommended reforms and policies, see Cortizat, Lustig, and Sabot, 1998:195; Birdsall, Graham, and Sabot, 1998:5; Cox Edwards, 1997:130; Edwards and Lusrig, 1997:20; Lora and Pages, 1997; Marquez and Pages, 1998; and Inter-American Development Bank, 1998.
21. Edwards and Lustig, 1997:20-21; Birdsall, Graham, and Sabot, 1998.
22. For a succinct account that contrasts the values and concerns of neoliberal labor economics and industrial relations, see Adams, 1995.
23. Nelson, 1994.
24. In the Brazilian case, however, other institutional incentives greatly raise turnover levels and therefore provide high levels of labor market flexibility while reducing employer incentives to invest in training (Amadeo, et al., 1995; Carmargo, 1997).
25. Haagh and Cook, 2003; ILO, 2002.
26. IADB, 1998; World Bank, 1995.
27. Haagh and Cook, 2003.
28. Cook, 2002.
29. Frank, 2002; Haagh and Cook, 2003.
30. Frundt, 1998.
31. La Botz and Alexander, 2003; Cook, 2003.
32. Haagh, 2001; Frank, 2002.
33. This strategy was adopted by "stronger" national labor movements that possessed organizational resources protected by law, such as union financing mechanisms or a role in social welfare schemes: the cases of Brazil, Argentina, and perhaps Mexico. The context also favored established or "traditional" labor organizations over their challengers: the CGT over the CTA in Argentina and the CTM over the UNT in Mexico. Where labor had neither strong collective rights nor corporatist privileges (e.g., the cases of Chile and Peru), resistance to labor law reforms that further weakened organizational strength was more difficult.
34. ILO, 2002.
35. Haggard and Kaufman, 1995.
36. Roberts, 2002; Roever, Colliet, and Seawright, 2003.
37. The most promising scenario for advancing the interests of workers and the poor—and for democracy—is not the substitution of labor unions by NGOs or social movements but rather the building of alliances between these groups. A positive example would be the Hemispheric Social Alliance, composed of unions, NGOs, and other groups across the Americas, that has formed to counter the governments' agenda in the FTAA.
38. The Venezuelan case provides the clearest example of the institutional role of labor. Hugo

Chavez attacked the unions for being institutions linked to traditional political parties and the old system. These attacks place the CTV on the side of employers, the church, and traditional parties in that country's conflict.

39. Mercosur, or Mercado Común del Sur, is a free trade area formed in 1991 comprising of Argentina, Brazil, Uruguay, and Paraguay with associate members Chile, Bolivia, and Peru.

## References

- Adams, Roy J. 1995. *Industrial Relations Under Liberal Democracy: North America in Comparative Perspective*, Columbia: University of South Carolina Press.
- Amadeo, Edward, Ricardo Paes e Barros, Jose Marcio Camargo, and Rosane Mendonca. 1995. "Brazil," in Gustavo Marquez, ed., *Reforming the Labor Market in a Liberalized Economy*, Washington, D.C.: Inter-American Development Bank.
- Birdsall, Nancy, Carol Graham, and Richard H. Sabot. 1998. "Virtuous Circles in Latin America's Second Stage of Reforms," in Nancy Birdsall, Carol Graham, and Richard H. Sabot, eds., *Beyond Trade-Offs: Market Reform and Equitable Growth in Latin America*, Washington, D.C.: Inter-American Development Bank and Brookings Institution Press.
- Bronstein, Arturo S. 1995. "Societal Change and Industrial Relations in Latin America: Trends and Prospects," *International Labor Review* 134(2), pp. 163-186.
- Bronstein, Arturo S. 1997. "Labor Law Reform in Latin America: Between State Protection and Flexibility," *International Labor Review* 136(1), pp. 5-26.
- Camargo, Jose Marcio. 1997. "Brazil: Labor Market Flexibility and Productivity, with Many Poor Jobs," in Edward J. Amadeo and Susan Horton, eds., *Labor Productivity and Flexibility*, New York: St. Martin's Press.
- Collier, Ruth Berins and David Collier. 1991. *Shaping the Political Arena: Critical Junctures, the Labor Movement, and Regime Dynamics in Latin America*, Princeton, NJ: Princeton University Press.
- Collier, Ruth Berins and James Mahoney. 1997. "Adding Collective Actors to Collective Outcomes: Labor and Recent Democratization in South America and Southern Europe," *Comparative Politics*, vol. 29, no. 3 (April), pp. 285-303-
- Cook, Maria Lorena. July 1998. "Toward Flexible Industrial Relations? Neo-Liberalism, Democracy, and Labor Reform in Latin America," *Industrial Relations* 27(3), pp. 311-336.
- Cook, Maria Lorena. 2002. "Labor Reform and Dual Transitions in Brazil and Southern Cone," *Latin American Politics and Society*, vol. 44, no. 1 (Spring), pp. 1-34.
- Cook, Maria Lorena. 2003. "Labor Law Reform in the Mexican Political Transition," School of Industrial and Labor Relations, Cornell University (unpublished paper).
- Cordova, Efen. 1989. "From Corporatism to Liberalisation: The New Directions of the Brazilian System of Industrial Relations," *Labor and Society* 14(3), pp. 251-269.

- Cortazar, Rene, Nora Lustig, and Richard H. Sabot. 1998. "Economic Policy and Labor Market Dynamics," in Nancy Birdsall, Carol Graham, and Richard H. Sabot, eds., *Beyond Trade-Off: Market Reform and Equitable Growth in Latin America*, Washington, D.C.: Inter-American Development Bank and Brookings Institution Press.
- Cox Edwards, Alexandra. 1997. "Labor Market Regulation in Latin America: An Overview," in Sebastian Edwards and Nora Claudia Lustig, eds., *Labor Markets in Latin America: Combining Social Protection with Market Flexibility*, Washington, D.C.: Brookings Institution Press.
- Duryea, Suzanne, Olga Jaramillo, and Carmen Pages. March 2003. "Latin American Labor Markets in the 1990s: Deciphering the Decade," Inter-American Development Bank, Research Department, Working Paper #486.
- Edwards, Sebastian, and Nora Claudia Lustig, eds. 1997- *Labor Markets in Latin America: Combining Social Protection with Market Flexibility*, Washington, D.C.: Brookings Institution Press.
- Edwards, Sebastian. 1995- *Crisis and Reform in Latin America: From Despair to Hope*, New York: Oxford University Press.
- Frank, Volker. 2002. "The Elusive Goal in Democratic Chile: Reforming the Pinochet Labor Legislation," *Latin American Politics and Society*, vol. 44, no. 1 (Spring), pp. 35-68.
- Frundt, Henry J. 1998. *Trade Conditions and Labor Rights: U.S. Initiatives, Dominican and Central American Responses*, Gainesville, Florida: University Press of Florida.
- Geddes, Barbara. 1995. "The Politics of Economic Liberalization," *Latin American Research Review*, vol. 30, no. 2, pp. 195-214.
- Guimaraes, Nadya Araujo, and Alvaro Augusto Comin. 2000. "Competitiveness, Employment Protection and Innovative Bargaining Experiences in Contemporary Brazil," presented at the conference on Work and Social Citizenship in a Global Economy, University of Wisconsin, Madison (November 10-11).
- Haagh, Louise, and Maria Lorena Cook. 2003. "Occupational Rights and New Employment Regimes in Emergent Economies," paper presented at meetings of the Latin American Studies Association, Dallas, Texas (March).
- Haagh, Louise. 2002. "The Emperor's New Clothes: Labor Reform and Social Democratization in Chile," *Studies in International Comparative Development*, vol. 38, no. 1 (May).
- Haggard, Stephan, and Robert R. Kaufman. 1995. *The Political Economy of Democratic Transitions*, Princeton, New Jersey: Princeton University Press.
- Inter-American Development Bank. 1998. "Facing Up to Inequality in Latin America," *Economic and Social Progress in Latin America, 1998-1999 Report*, Washington, D.C.
- International Labor Office. 2002. "Globalization and Decent Work in the Americas," Report of the Director-General, Fifteenth American Regional Meeting, Lima, Peru (December).
- International Labor Office. 1999. Report of the Director-General, XIV American Regional Meeting, Lima, Peru, August 24-27, available at <http://www.oitamericas99.org.pe>.

- La Botz, Dan, and Robin Alexander. 2003. "Mexico's Labor Law Reform," *Mexican Labor News and Analysis* (April), available at <http://www.ueinternational.org>.
- Lora, Eduardo, and Carmen Pages. 1997. "La legislacion en el proceso de reformas estructurales de America Latinay el Caribe," Documentos delTrabajo, Oficina del Economistajefe, Banco Interamericano de Desarrollo.
- Marquez, Gustavo, and Carmen Pages. 1998. "Ties That Bind: Employment Protection and Labor Market Outcomes in Latin America," prepared for the seminar, Employment in Latin America, What is the Problem and How to Address It?, Annual Meetings of the Board of Governors, Inter-American Development Bank and Inter-American Investment Corporation, Cartagena de Indias, Colombia (March 15), Office of the Chief Economist, Inter-American Development Bank.
- McGuire, James W. 1997. *Peronism Without Peron: Unions, Parties, and Democracy in Argentina*, Stanford, CA: Stanford University Press.
- Murillo, Maria Victoria. 2001. *Labor Unions, Partisan Coalitions, and Market Reforms in Latin America*, New York: Cambridge University Press.
- Nelson, Joan M. 1994. "Overview: How Market Reforms and Democratic Consolidation Affect Each Other," in Joan M. Nelson, Jacek Kochanowicz, Kalman Mizsei, and Oscar Mufioz, eds., *Intricate Links: Democratization and Market Reforms in Latin America and Eastern Europe*, New Brunswick, NJ, and Oxford, UK: Transaction Publishers.
- Reuschmeyer, Dietrich, Evelyne Huber Stephens, and John D. Stephens. 1992. *Capitalist Development and Democracy*, Chicago: University of Chicago Press.
- Roberts, Kenneth M. 2002. "Social Inequalities without Class Cleavages in Latin America's Neoliberal Era," *Studies in Comparative International Development*, 36(4), pp. 3-33.
- Roever, Sally, Ruth Berins Collier, and Jason Seawright. 2003. "Neighborhoods, Networks, and Political Participation: Emerging Patterns of Working-Glass Representation in Peru," paper presented to the International Political Science Association meetings, Durban, South Africa (June-July).
- Williams, Mark Eric. 2001. *Market Reforms in Mexico: Coalitions, Lnstitutions, and the Politics of Policy Change*, Rowman and Littlefield.
- World Bank. 1995- *World Development Report 1995: Workers in an Integrating World*, Washington, D.C.: The World Bank.
- Valenzuela, J. Samuel. 1989. "Labor Movements in Transitions to Democracy: A Framework for Analysis," *Comparative Politics* 21 (July), pp. 445-472.