

Chile and Argentina

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Introduction

The study of employment relations in Chile and Argentina has been the outcome of research in various disciplines particularly sociology, political science, law, and history. This broadly defined scholarship has followed similar lines of analysis in both countries, reflecting their parallel socio-economic transformations and corresponding changes in employment relations actors and institutions. From the rise of import substituting industrialisation and developmentalist populist regimes in the 1930s, which provided the base upon which ‘classic’ employment relations systems began to take shape, to the crises and replacement of such regimes by military dictatorships and the introduction of neoliberalism in the 1970s, which redefined the relationship between capital and labour.

A review of the literature has identified two main foci of study that roughly overlap with these two socio-economic eras. A more traditional line of enquiry has focused on the centrality of labour movements in the making of history, politics and socio-economic development of each country and has been particularly concerned with examining the shifting relations between trade unions, the state, and political parties. A more contemporary focus of study has concentrated on the imposition of neoliberalism, transitions to democracy, labour reform as well as on the implications of new managerial practices on the dynamics of employment relations.

With regard to the first focus, the literature on Chilean employment relations can be traced back to historians working from a classic Marxist tradition (Barría, 1971; Jobet, 1951; Ramírez Necochea, 1956; Segall, 1953).¹ They centred on organised workers –particularly the industrial and mining proletariat- whose social

¹ The citations included within this section are for illustrative purposes only and are not intended to provide an exhaustive overview of the literatures in question.

consciousness and collective action was essentially conceived of as autonomous and socio-political. Sociologists and political scientists questioned the revolutionary, conscious, and transformative nature of Chilean workers presented by historians, and concentrated instead on explaining the relationship between trade union action and political action (Angell, 1972; Di Tella *et al.*, 1966; Landsberger *et al.*, 1964; Petras and Zeitlin, 1967). In parallel, a more conventional literature has kept record of traditional 'industrial relations' data including union membership and density, collective bargaining, and industrial conflict (Frías, 1993; Morris and Oyadener, 1967; Pizarro, 1986).

In Argentina, labour historians and sociologists have often concentrated on the dynamics of trade unionism analysing cases of mobilisation, trade union development and organisation, and the role of the state in these processes, trying to disentangle the complexity of the relations between trade union and *Peronism* (Atzeni and Ghigliani, 2009; Doyon, 2006; James, 1990; Torre, 1988). Political scientists have looked at the role of trade unions in shaping the government's political agenda towards forms of 'corporatism' (Drake, 1996) or 'neo-corporatism' (Etchemendy and Collier, 2007), as well as their interaction with political parties (Levitsky, 2005).

In terms of the second focus, studies on the imposition and impact of neo-liberal restructuring on Chilean employment relations have been extensive and covered a broad range of issues. Studies have analysed the socio-economic transformations carried out by the Pinochet dictatorship (Collins and Lear, 1995; Silva, 1996b) and the nature and dynamics of trade unionism under military rule (Campero and Cortázar, 1985; Ruiz-Tagle, 1989). Research has also discussed the socio-economic record of the democratic regime (Drake and Jaksic, 1999; Martínez, J. and Díaz, 1996), labour and capital's role in the transition to democracy and the issue of social concertation (Frank, 2004; Silva, 1996a), as well as the nature of employment relations legislation and labour reform (Durán-Palma *et al.*, 2005; Frank, 2002a; Haagh, 2002; López, 2004). During the late 1990s and 2000s, numerous studies have looked at the emergence of new categories of workers as a result of an increasingly flexible and precarious labour market (Echeverría, 1997; Soto Roy, 2008; Winn, 2004), as well as the changing nature of worker and employer collective action (Abarzúa, 2008; Arriagada, 2004; Durán-Palma and López, 2009; Monckeberg,

2001), collective bargaining (González, 1998; Montero *et al.*, 2000), technological change, and work organisation (Agacino *et al.*, 1998; De Laire, 1999).

In the case of Argentina, research includes the study of changes in labour market dynamics and the growth of the informal sector (Piva, 2005; Villanueva, 1997), trade union crisis and changes in employment relations (Fernández and Bisio, 1999; Novick, 2001), trade union resistance to privatisation (Ghigliani, 2010), the introduction of flexible working at firm level (Martínez, Ó., 1994), industrial conflict (Íñigo Carrera, 2007), the organisation of the unemployed movement (Dinersein, 2001), as well as inter-union alliances and competition as a result of market reforms (Murillo, 2001). More recently, and following the post 2001 economic recovery, new studies have looked at aspects of union renewal (Atzeni and Ghigliani, 2007), workers' resistance (Lenguita and Montes Cató, 2008), and grass-root democracy and workers representation (Vocos, 2010).

Despite these two potentially converging research trends, comparative studies of Chile and Argentina have been unusual. Although these two countries have occasionally featured together in edited publications at regional level (some past and contemporary examples include Alexander, 1962; Bergquist, 1986; Cook, 1998, 2002, 2007; Drake, 1996; Etchemendy, 2004; Falabella, 1989; Marshall, 2006; Munck, 1994), direct (paired) comparison between them has been extremely rare. This is particularly surprising given that Chile and Argentina share a common historical and cultural heritage, the world's third-longest international border, and parallel patterns of socio-economic development, but nonetheless show a number of country specific differences and adaptations in their employment relations systems.

In this chapter we aim to provide a modest introduction to the main similarities and differences in employment relations between Chile and Argentina. The first section provides a historical account of these countries' traditional employment relations in the context of import-substituting industrialisation. The second section discusses the nature and impact of the imposition of neoliberal restructuring. The third section focuses on novel worker responses to the increasing divide between formal and informal employment. A short conclusion will follow.

Industrialisation, trade unions and employment relations

Argentina, Brazil, Mexico, and to lesser extent Chile, became regional leaders in the process of import substituting industrialisation (ISI) that characterised the ‘short twentieth century’ in Latin America’s largest countries. In contrast to the hitherto over reliance on *laissez-faire* and primary exports for the world markets, ISI aimed to ‘develop industries oriented toward the domestic market by using trade restrictions such as tariffs and quotas to encourage the replacement of imported manufactures by domestic products’ (Krugman and Obstfeld, 2003: 258). While there were strong common variables involved, national variations particularly in terms of the origins of ISI and the nature and timing of initial labour legislation, played a significant role in shaping the character of what were to become these countries’ ‘traditional’ models of employment relations.

In Chile, the breakdown of the *laissez-faire* primary-export based pattern of accumulation led to the incremental adoption of ISI as strategy to resume growth after the Great Depression of 1929. Chile’s first labour code was enacted in 1931 on the basis on piecemeal legislation passed in the 1920s. It was protective of the individual employee, instituted fragmented collective bargaining as the norm, and subjected unions to the supervision of the state. In contrast to Chile’s more stable state-building path and industrialisation policy (Silva, 2007), ISI in Argentina emerged as the product of a narrow and unexpected alliance between trade unions, a small elite of army and government authorities, and some domestic industrialists, and was not initially accompanied by the introduction of an organic system of employment relations. Eventually, this alliance evolved into a national political movement, Peronism, that led industrialisation and built a vigorous system of collective employment relations in the 1940s and 1950s.

Strong labour movements emerged in Chile and Argentina during the ISI era. This was mutually reinforcing as ISI created a concentrated industrial labour force that was amenable to political organisation, while strong trade unions provided an organised mass constituency to support ISI policies (Roberts, 2002). State-labour relations in Chile and Argentina during ISI were characterised by the incorporation of

labour movements. But while Chile became an example of state-incorporation with governments aiming to control the labour movement, Argentina fell in the category of political-party incorporation (Collier and Collier, 1991), evidencing variants of labour mobilisation by strong leftist and populist political parties respectively (Roberts, 2002). As a result, the Chilean labour movement turned into a political arena for the struggles of Communists, Socialists, and Christian Democrats, and Argentina's became the ideological, financial, and structural base of Peronism (*Partido Justicialista*).

Chile

The political corruption, economic *laissez-faire*, and strictly free, unregulated labour market that characterised the period that followed the 1891 Civil War began to breakdown in the late 1910s reflecting the ups and downs of Chile's overdependence on nitrate exports. The 1920s were characterised by regular economic crises, heightened levels of industrial conflict, the introduction of primitive employment relations legislation, and by a succession of short-lived governments proposing radical alternatives to the breakdown of the model of 'outward-oriented' development (Salazar, 2003). The 1930s constituted a critical juncture in Chile's political economy and development of employment relations institutions, as the progressive adoption of ISI policies, the enactment of the 1925 Constitution, and the 1931 Labour Code began to shape the milieu of political, economic and social adjustments known as 'inward-oriented' development.

After becoming one of the worst casualties of the Great Depression of 1929 – with exports and imports decreasing 78% and 84% between 1929 and 1932 while the world economy contracted 'only' by 25% (Pinto and Salazar, 2002)- consensus grew stronger on the need for the state to promote domestic industry, an incremental process that gained a definite impetus with the formal adoption of ISI by the Popular Front in 1938. Complementary, the 1925 Constitution came into force in 1932, replacing a corrupted pseudo-parliamentary system with a presidential political system that provided for the broad and solid political framework that would later back the developmentalist state (Lucena and Covarrubias, 2006).

Chile's first labour code was enacted in 1931. A consolidation of early and new labour legislation, the code was protective of the individual employee and characterised by extensive and highly detailed regulations. It distinguished between blue- and white-collar workers, for whom separate social security schemes were created (Cook, 1998; Mizala and Romaguera, 2001; Walker, 2002). In line with this distinction, collective regulations instituted fragmented collective bargaining as the norm and were restrictive of labour organisations, subjecting them to the supervision of the state (Córdova, 1996). State intervention was particularly evident in the Ministry of Labour's role in collective bargaining, from which unions had to secure permission before negotiating, supervised their finances, and run an obligatory conciliation service, which in turn, sanctioned the legality or illegality of strikes. Blue- and white-collar workers were forbidden to join the same union, but had to organise in *industrial* and *professional* unions respectively. For Roddick (1989: 203) the fragmented character of the 1931 Labour Code 'ultimately forced most of Chile's labour movement into legally differentiated boxes, bargaining under different preconditions and with different institutional horizons'.

Socialists and Communists identified with the Popular Front and participated in government between 1938 and 1948. They committed to abide by the collective bargaining institutions of the labour code and to observe 'social peace' while in government. As a result, the new system of employment relations began to settle, industrial conflict decreased considerably throughout the decade, and Socialists and Communists became the dominant force within the labour movement to the expense of their Anarchist rivals.

The main characteristics of Chile's 'classic' or 'legal Marxist' unionism began to crystallise after the formation of CUT (*Central Única de Trabajadores*) in 1953, a unification of all major confederations. Classic unionism was largely confrontational in relation with employers and favoured organisation at higher-levels. Channelling grievances through federations and confederations had socio-political visibility and helped to overcome weak bargaining power at company-level. In this context, political parties performed an intermediary role between unions and the state in control of the employment relations system and as a result, Chile's labour movement

turned into a political arena for the struggles of Communist, Socialists, and later, Christian Democrats.

The diffuse differentiation between political parties and trade unions resulted in a loss of autonomy of the latter in relation to the former. For some commentators, classic unionism represented an expression of class struggle, but limited to economic grievances and subordinated to political parties, resulting in a weak 'autonomous politisation' of the labour movement in contrast to the highly militant politisation of its leadership. For others, that labour strategy developed in this way was a mere consequence of legal restrictions, and the resulting overlapping of interests with parties of the left (Rojas and Aravena, 1999). That these and other characteristics are widely considered to represent the labour movement in this period should not obscure the fact that, as ever, the labour movement is a largely heterogeneous entity (Campero and Cortázar, 1985).

Despite legally induced fragmentation, organised labour's traditional indicators of power and participation in the polity increased throughout the period of inward-oriented development. Union density grew from 21% in 1940 to its 29% historical peak in 1973. Likewise, collective bargaining coverage rose to an average of 13% of the occupied workforce between 1965 and 1970, decreasing slightly to 11% between 1971 and 1973 (Mizala and Romaguera, 2001). Likewise, the restrictions governing strikes were not obstacle for union mobilisation, as industrial conflict – albeit illegal- increased heavily during the 1960s (Pizarro, 1986). Furthermore, CUT played a decisive role in national politics, which culminated with the democratic election of Salvador Allende and the Popular Unity coalition in 1970. As socialist reforms deepened however, a coalition of landowners, middle classes, as well as American corporations in Chile began a series of destabilising activities and an economic blockade that fuelled political polarisation and social conflict ending in the *coup d'état* of 11 September 1973 (US Department of State, 2000; US Senate, 1975).

Argentina

The 1930s also hastened important economic and political changes in Argentina. The political unrest generated by the Great Depression ended in a military *coup d'état* that

dramatically changed the country's political situation, and gravely affected unions as repression increased. While, the military government that followed had no interest in nationalism or industrial policy (Silva, 2007), ISI emerged from a narrow and unexpected alliance between trade unions, a small elite of army and government authorities, and some domestic industrialists. At this stage, ISI produced an expansion of the working class and increase in unionisation, but was not accompanied by the introduction of an organic system of employment relations. Although after the peak of strikes of 1935-1936, the state gradually increased its role in labour disputes through the *Departamento Nacional del Trabajo*, employment relations continued to rest on voluntarism until the rise of Peronism a decade later. Until then, the Argentinean labour movement faced a continuous combination of political exclusion and industrialisation without income redistribution, which fuelled growing working class discontent.

The arrival of Colonel Perón at the *Secretaría de Trabajo y Previsión* in 1943 and his two consecutive democratic presidencies (1945-1955) encouraged the political integration of the labour movement, and brought about the emergence of a system of state intervention and regulation of the capital-labour relationship. Between 1943 and 1955, both military and democratic authorities backed union recognition, enforced previous labour laws, promoted new legislation, and actively intervened in labour conflicts, collective bargaining and social security. Argentina's labour movement became the ideological, financial, and structural base of Peronism.² This development was at the expense of the previous influence of Anarchists, Socialists and Communists, as the rise of Peronism ran parallel to the growth of anti-communist policies and oligarchic tendencies within the labour movement.

From the point of view of labour, the backbone of the system was the 1945 Law Decree on trade union organisation. *Inter alia*, it established the monopoly of labour representation in collective bargaining based on the legal recognition of the union with the greatest number of members (*personería gremial*), and consolidated the dominance of industry-wide trade unions (Marshall, 2006). The law recognised the right of workers to organise, granted the state influence on legal procedures and

² However, the instability of the parliamentary system, the strong development of workplace organisations, and since 1980s, the de-unionisation of the political structures of the *Partido Justicialista* point to a less linear relationship between the state and the labour movement in Argentina.

unions internal activities, gave employment protection to union officials, typified anti-union practices, and supported trade union initiatives in social security.

Union density reached its 48% historical peak in 1954 (Lamadrid and Orsatti, 1991). Unions were able to translate workers mobilisation into advantageous labour contracts. Important union demands like the introduction of workplace structures (*comisiones internas*), the closed-shop, or financial benefits like pension schemes and health services, were originally obtained by unions in collective agreements, and only later incorporated into labour legislation.

In 1944 and 1953, first by decree and then by special legislation, the state encouraged collective bargaining, extended its coverage and secured the participation of ministerial authorities on the bargaining table. Ever since, collective agreements are valid only if approved by the Ministry of Labour (*homologación*) and their terms extended to all workers in a particular industry or economic activity irrespective of union membership. The state was granted and still maintains a powerful role as it can refuse to validate and/or impose changes to a collective agreement. In practice, this power is normally not used and instead parties usually seek ministerial advice and approval before negotiating on sensible issues.

It is important to note however, that between 1953 and 1988, trade unions and employers were able to freely negotiate collective agreements during eleven years only as both military and democratic governments frequently suspended the application of bargaining legislation. Yet, these collective agreements were able to shape Argentina's employment relations because of a legal disposition by which any agreement remains valid until it is formally replaced or repealed (*ultra-actividad*). The resulting juridification of employment relations placed regulatory public institutions at the centre of the system, made politics pivotal to its practice, and certainly contributed to the development of bureaucratic leaderships incorporated into the Peronist movement. Ultimately, this led to the Workers General Confederation (*Confederación General del Trabajo* - CGT) and other trade union political bodies like the 62 *Organizaciones Peronistas*, to engage in a sort of political exchange with different governments whenever the chance arose.

Nevertheless, this juridification did not reach the workplace to the same extent, because the rank-and-file were able to build up strong and lively workplace structures between 1946 and 1955. The *comisiones internas* became, and still are, determinant in defending workers' interests, particularly in terms of making employers observe the terms of collective agreements.

Peronist legislation also encouraged the institutionalisation of union-provided health care for workers and their families, perhaps the most salient feature of Argentinean trade unions. The *obras sociales* were created in the late 1950s and early 1960s through collective agreements with employers and although both sides contribute to financing these schemes, their administration was reserved to the unions. In 1970, employers and unions were legally obliged to create and extend *obras sociales* to non-unionised workers in the same industry. As a result, a worker was able to pay *obra social* dues without becoming a union member, strengthening union finances and protecting them against free riders in collective bargaining. The *obras sociales* have become one of the pillars of the country's health system, and as such a source of power and an axis of political exchange for the unions.

The significance of these various institutions for the strength of the Argentine labour movement is evident when considering that every single attempt to curtail trade unions power, by both military and civil governments since 1955, has manifested in an open attack to their legal basis, the institutions of collective bargaining, the *comisiones internas*, and since 1970, the union control of the *obras sociales*.

The continuing effects of neoliberal restructuring on employment relations

By the mid-1970s, Chile and Argentina began to abandon ISI and impose neoliberalism under harsh military dictatorships. The military rejected ISI's high levels of state involvement in the economy, protectionism, and inclusive social policies. As they brutally repressed the labour movement, authoritarian regimes imposed policies oriented to facilitate the role of the market through trade liberalisation, capital market deregulation, privatisation, and a dismantling of labour

regulations. But as Cook (2002, 2007) has extensively discussed, the nature and sequence of the 'dual transitions' that have characterised the last three decades -from ISI to neoliberalism, and from dictatorship back to democracy- have differed greatly between the two countries.

Chile experienced market reforms before democratic transition. Neoliberal restructuring and the revamp of labour legislation were largely consolidated by a dictatorship able to suppress most forms of resistance. Since 1990, the democratic governments of the *Concertación* have maintained the majority of socio-economic policies originally associated with Pinochet, within a largely stable political setting and expanding economy. In contrast, Argentina experienced democratic transition before consolidating market economic reforms. Although the latter were initiated by the military between 1976 and 1982, they were questioned during the democratic transition (1983-1989). Indeed, the bulk of Argentinean neoliberal restructuring was introduced by the civilian government of Carlos Menem during the 1990s, in the midst of political confrontation and economic and social turmoil.

This has had significant, albeit contrasting, consequences for the direction and politics of labour law reform in both countries under their democratic regimes. While the direction of labour reform in Chile was protective reflecting efforts to redress the legacy of the dictatorship, labour reform in Argentina was characterised by attempts to flexibilise and reverse earlier labour protections (Cook, 1998). Nevertheless, current employment relations systems have neither gained an exclusively protective nor flexible character respectively. Indeed, the nature of Chile's employment relations remains essentially flexible while Argentina's may be described between flexibility and protection (Cook, 1998).

The consolidation of structural reforms during the 1990s was achieved through the intervention of labour-supported coalitions and political parties. In Chile, CUT supported the *Concertación* and engaged in social concertation with the state and employers, accepting and legitimising the bulk of neo-liberal model in exchange for meagre labour reforms. In Argentina, the CGT showed an ambivalent attitude to Menem's Peronist government, supporting individual reforms oriented to labour

flexibility in exchange for protection for trade unions' traditional organisational and financial structures.

As a result of neoliberal restructuring, both countries now show high levels of atypical employment, precariousness, informality, and inequality. In contrast, there is a significant difference between Chile and Argentina terms of collective labour relations. In Chile, effective collective representation has become a rarity with stagnant or declining levels of unionisation and collective bargaining. In Argentina, union density and coverage among unionisable workers remains high, and unions remain financially and politically powerful. Moreover, while the outcomes of bargaining tend to be modest in Chile, the opposite is currently the case in Argentina.

Chile

After a short period of policy indecision, the Pinochet regime (1973-1990) began implementing neoliberal restructuring in 1975, imposing draconian stabilisation programmes, privatisation, and the rapid, thorough liberalisation of capital markets, prices, and trade (Silva, 1996a). Given the perceived success of the policies, market logic began to expand into most key areas of social policy in the late 1970s, including health, pensions, and the revamp of employment relations legislation.

Individual legislation was first reformed in 1978 when the regime derogated protective norms imposing in effect a 'neoliberal approach to flexibility', characterised by a downward adjustment of terms of employment, quantitatively through wage cutting and substandard contracts, and qualitatively as the restoration of managerial authority (Streeck, 1987). Collective labour relations were re-regulated in 1979 through a series of acts designed to weaken unions as bargaining agents and centred on preventing collective action from having an effect on the labour market (Valenzuela, 1989). The 1979 Labour Plan –strictly speaking a 'trade union plan' according to his author (Piñera, 1990)- re-legalised trade unionism but limited union activity exclusively to the level of the firm, set strict limits to union power, decentralised collective bargaining completely, restricted the right to strike, and reduced the role of the state in employment relations.

Although the immediate result of the plan was the resurfacing of union organisations, over time it institutionalised a fragile and fragmented unionism. Nevertheless, (illegal) national level organisations were able to reorganise and played a decisive role in the plebiscite that led to the recovery of democracy in 1990. The *Concertación*, a labour-supported centre-left coalition led by Christian Democrats and Socialists, remained in power until 2010.

Deepening democracy, reforming the ‘predatory, dependent, and excluding’ economic model, and reforming the regime’s employment relations legal framework (‘no democracy without labour reform’) were all in the *Concertación*’s agenda. Fearful of a conservative backlash and showing significant doses of pragmatism in a expanding economy however, the *Concertación* quickly backed away from any plan to substantially change Chile’s neoliberal socioeconomic model. Instead, the coalition pledged to reduce the social deficit accumulated under military rule and committed itself to foster “growth with equity” within the ‘protective’ political framework inherited from the dictatorship (Durán-Palma *et al.*, 2005).

In this context, compromise and moderation were argued by the government as the most effective way to achieve concessions from militant employers and a strong opposition in reforming employment relations legislation. Aylwin’s government (1990–1993) sought to promote social concertation at national level among the government, CUT, and the main employers’ association, the CPC. In this period, broad tripartite agreements were signed and various laws passed which later consolidated into the 1994 Labour Code. By the mid-1990s, tripartism was abandoned as it had actually turned into bilateral exchanges between the government and employers (Silva, 1996a).

By the end of the Frei administration (1994–1999), labour reform had become a hot political issue. Reforms were introduced and blocked in the Senate during the 1999 presidential elections, which arguably helped the coalition to stay in power. The Lagos government (2000-2006) passed weakened reforms in 2001. The last *Concertación* administration (Bachelet, 2006-2010) was also elected in the midst of another ‘hot employment relations summer’ (see next section).

Social concertation and labour reform have delivered meagre results. While the 1994 and 2001 reforms reduced the repressive character of authoritarian legislation, many emblematic changes had provisions that contributed in practice to preserving the essentially flexible and restrictive character of labour legislation. This is not to say that reforms have not encouraged pluralism and improved the level of social protection for the most vulnerable, but that the enjoyment of labour rights typically associated with ‘advanced’ employment relations systems remains limited (Durán-Palma *et al.*, 2005; Frank, 2002a).

Research explaining the failure of social concertation and the limitations of labour reform have highlighted several factors (Durán-Palma *et al.*, 2005; Frank, 2002a, 2002b; Haagh, 2002). Perhaps the most evident have to do with the institutional compromises made as a result of the early transition process, the political right’s recalcitrant opposition to reform, and employers’ lack of interest in fostering better relations with labour (Frank, 2004). More important however, it has been the progressive identification of the *Concertación* with neoliberalism, which has constrained the possibility of systemic reform *inter alia* in the area of employment relations because cheap and flexible labour with few rights to collective action are critical to the model, and have indeed been central to the recovery and expansion of Chilean capitalism (Taylor, 2004). But the resilience of the model has also been the result of a weakened labour movement and its strategic choices. Due to its close ties with the *Concertación*, the CUT gave priority to the consolidation of democracy over class struggle and the organisational needs of the labour movement (Frank, 2004).

As a result, ‘a conspicuous tension remains in the discrepancy between the *Concertación*’s rhetorical commitment to “growth with equity” and the reality of pronounced social polarisation’ (Taylor, 2004: 76). Nearly 36% of Chile’s labour force works today in the informal sector (Tokman, 2007). Low incentives for unionisation and collective bargaining have also rendered effective collective representation a rarity. Union density as percentage of wage and salary earners in the private sector has declined from its post-dictatorship peak of 21% in 1992, to 15% in 2007 (Dirección del Trabajo, 2008a). In 2006, 68% of workers work in firms with no unions (Pulso, 2007). Likewise, the percentage of workers participating in collective bargaining each year has declined from 10% in 1991 to a mere 6% in 2007 (Dirección

del Trabajo, 2008b). Moreover, the outcomes of collective bargaining have worsened with wage improvements 'uncomfortably close to the level of inflation' (Frank, 2002b: 11).

Argentina

Neoliberal restructuring was also introduced in Argentina by a military dictatorship (1976-1983). The military opened the economy to foreign capitals, reoriented the role of the state, and promoted a series of financial reforms increasing the public debt and the dependence on international financial institutions (IFI). In contrast to Chile however, Argentina's first democratic government (Alfonsín, 1983-1988) softened, and even questioned the neo-liberal turn. Unions were able to obtain prolabour reforms and secured rights that were enshrined in labour law.

Market reforms were only consolidated during the government of Peronist Carlos Menem (1989-1999) elected under severe economic conditions, a hyperinflationary crisis, and the pressure of IFI. Menem's 'Convertibility Plan' increased public debt to maintain an anti-inflationary peso-dollar parity, making Argentina even more dependent on IFI. The plan also involved a radical reform of the state including the privatisation of state-owned utilities and enterprises, reduction of public spending, decentralisation, and tendering.

Menem's reforms certainly involved reversing its predecessor's short-lived labour protections. Individual labour rights and collective bargaining were reformed piecemeal to ease the introduction of flexible contracts and working practices, producing devastating effects on employment and having a profound impact on the employment relations system. The Peronist neo-liberal offensive threw trade unions into disarray. Some powerful organisations supported the government, giving rise around the CGT to an 'entrepreneurial unionism' mainly focused on business opportunities to strength unions' financial resources, ultimately maintaining core interests linked to organisational survival and collective bargaining coverage. Other organisations contested neo-liberal policies resulting in the emergence of a rival confederation in 1992, the *Central de Trabajadores de la Argentina* (CTA), as well as

of an oppositional faction within the CGT in 1994, the *Movimiento de Trabajadores Argentinos* (MTA).

Throughout the 1990s, flexibility became the leitmotif of employers and the government. Employers introduced flexibility in the newly privatised utilities and enterprises, in a largely piecemeal fashion. Their offensive at firm level impacted on four main areas: the legal nature of the employment relationship, wage determination, distribution of working hours, and the definition and organisation of the labour process.

The government sought flexibility by legal reform and collective bargaining. Although eventually successful, it was a highly contested process. Between 1992 and 1999, the CGT, the CTA and the MTA launched nine general strikes against governmental policies. During Menem's first term (1989–1995), only eight out of twenty bills to reform labour laws were passed in Parliament. This was mainly the result of a number of Peronist MPs with union backgrounds who, despite the profound de-unionisation of the PJ, were able to block legislative initiatives to flexibilise contracts. But after the government reached a corporative pact with the CGT in 1994, these MPs stopped blocking neoliberal legislation.

Indeed, during Menem's second term (1995-1999), Argentina's traditional centralised system of national collective bargaining was reversed by favouring collective negotiations at plant level in a bid to facilitate the introduction of flexibility. This certainly debilitated trade unions' bargaining power, but in exchange for introducing reforms -and to co-opt the CGT- the government increased protection and financial support to the *obras sociales*, and allowed unions to invest in the new business opportunities brought about by the privatisation and deregulation of the health, pensions, and industrial accidents insurance systems.

During the 1990s, neoliberal restructuring had a highly negative impact on the labour market, particularly in terms of the growth of the informal sector. Whereas from 1992 to 1996 the rate of unregistered employees oscillated between 22 and 25%, by the end of 2009, this figure stands at 36% (TEL, 2009). Increasing informalisation translated into relative union demobilisation at local and industry level. But between

1997 and 2002, informalisation was also responsible for activating an unprecedented process of mass mobilisation led by the unemployed who began to organise in new territorial organisations. These organisations played an important role in the mass protests that overthrew the government in December 2001 in the midst of a severe economic crisis.

As the economy began to recover in 2003, traditional trade unions have regained a prominent role. First, at 40%, union density among unionisable workers remains very high for Latin American standards. Second, the number of collective agreements has increased from 348 in 2004 to 1231 in 2008, covering the great majority of workers employed in the formal sector. In 2005, for instance, although union density in formal sector enterprises stood at 37%, 90% of them signed some type of agreement with a trade union, covering 83% of their workforce (Trajtemberg and Attorresi, 2005). Third, even though flexibility has not been reversed, some unions have been able to obtain important benefits in areas including working-hours, pay, outsourcing, and health. Last, while decentralisation of collective bargaining remains high, the tendency is to favour national sector agreements and to coordinate these by linking wage increases in less dynamic sectors where unions have less bargaining power with those obtained by more powerful and representative unions.

Neo-liberalism, mobilisation, and evolving forms of collective action

Analyses like the above, based largely on traditional actors, national level, and formal regulations, run the risk of overlooking interesting developments occurring elsewhere, particularly in terms of the increasing diversity in struggles and evolving forms of collective action. These can be observed in Chile and Argentina, partly as a result of a constant tension between the rank-and-file and trade union confederations legitimising (or weakly opposing) neo-liberal restructuring. They suggest a renewed potential for contestation in both countries, but the nature of the most relevant of these experiences vary greatly.

In Chile, CUT engaged in social dialogue with the state and employers, and accepted the legitimacy of neo-liberalism in exchange for meagre labour reforms.

With the exception of some public and strategic sector unions, rank-and-file militancy was largely contained within the system or marginalised throughout the 1990s and early 2000s. However, increasing signs of discontent and significant pockets of resistance can be observed, particularly amongst workers in the ‘rough end’ of the labour market, particularly those working in outsourced employment relationships. Increasingly successful ‘contract labour unions’ have organised within the system but mobilised outside it, achieving remarkable gains.

In Argentina, the CGT showed an ambivalent attitude to Menem’s neoliberal reforms, exchanging labour flexibility for protection for trade unions’ organisational and financial structures. But this strategy produced growing tensions, the fragmentation of workers’ centrals, and hesitant tactics, which included bitter industrial action. Until 2002, all these contradictions caused workers’ demobilisation and the rise of alternative forms of collective action, mainly by organisations of unemployed workers outside trade union’s domain. Since 2003 however, the resurgence of industrial conflict has concentrated on, and been accompanied by radical grass-root experiences, which have questioned the top-down oligarchic control of most traditional trade unions.

Chile

No other group of workers has come closer to symbolise the precarious state of the Chilean labour market than contract workers (*subcontratistas*).³ Contract workers labour in outsourced employment relationships occupying the frontier between formality and informality.⁴ This is because more often than not, outsourcing is used to intentionally disguise the employment relationship that *de facto* exists between user enterprises and contract workers. User enterprises are not obliged to observe labour legislation with regard to workers legally employed by a third party and, in this way, reducing labour costs while remaining in control of the employment relationship (Durán-Palma and López, 2009). Contract workers earn significantly less than ‘direct’

³ This section draws liberally from Durán-Palma (2009) and Durán-Palma and López (2009).

⁴ Outsourcing (*subcontratación*) refers herein to triangular employment relationships where a worker (‘contract worker’) employed by an enterprise (the ‘provider’) performs work for a third party (the ‘user’) to whom their employer provides labour or services (ILO, 2006). It should not be confused with the supply of labour under commercial contracts.

workers performing work of equal value, labour in relatively unsafe working conditions, and present low levels of unionisation and collective bargaining (Echeverría, 2006). Unsurprisingly, outsourced employment has been generally characterised as precarious and contract workers are widely seen and see themselves as second-class labour force.

Outsourcing in Chile has increased rapidly as large user enterprises have developed extensive networks based on the contracting out of labour and/or services, provided by numerous small and medium enterprises. In 2007 over half of all companies outsourced at least one function and 35% of all workers in the formal sector work under outsourced employment contracts (Dirección del Trabajo, 2007; Pulso, 2007).

Outsourcing remained poorly regulated until the presidential elections of December 2005 installed the ‘contract labour question’ on top of the political agenda. Unions representing contract workers labouring for state-giant CODELCO (*Corporación del Cobre de Chile*), the world’s largest copper producer, conducted massive mobilisations demanding better employment and working conditions. In early 2006, the incumbent Lagos government re-introduced a Bill on Outsourcing dormant in Congress since 2001. After a rocky legislative process, newly elected President Michelle Bachelet promulgated the Outsourcing and Supply of Labour Act on 16 October 2006, claiming that it represented ‘a definite, decisive, and clear step in terminating with the division between first and second class workers’ (Bachelet, 2006).

Immediately after the Act came into force on 16 January 2007, the National Labour Bureau began a comprehensive plan of labour inspections. The Bureau detected numerous irregularities involving disguised employment relationships and, in a series of emblematic rulings, demanded user enterprises to internalise thousands of contract workers. Whereas some employers began to diligently employ these workers, many others successfully challenged in court the Bureau’s competency to rule on such matters.

As the Bureau's position was undermined and employer opposition to the Act grew stronger, a sudden wave of labour discontent, mass mobilisation, and violent industrial conflict began to engulf the country. Hitherto a largely invisible majority, contract workers in flagship commodity export sectors began solid mass mobilising drives in late 2005. Unions of contract workers particularly in the copper mining and forestry sectors did not confine themselves to demand new legislation, or to try to engage in firm-level negotiations, which they had got painfully used to lose. Instead, they chose to organise contract workers across provider enterprises, and to mobilise outside formal institutional channels to put direct pressure on user enterprises. This ultimately allowed them to bargain from a position of strength and to achieve remarkable gains, setting a bargaining pattern throughout the forestry sector and forcing the state-owned copper mining sector to improve employment and working conditions. In 2009, top leaders of the now called 'contract labour movement' (*movimiento obrero subcontratista*) successfully bid for top positions in CUT.

Although still early to establish the long-term significance of these events, it seems that qualitatively different period in Chile's employment relations may be emerging. While the neoliberal establishment has been able to resist challenges from above by employing constitutional prerogatives and relying on the hegemony of the ruling elite, it has appeared far less prepared to contain the direct challenge represented by subordinate forces mobilising outside institutional channels. Indeed, it is the first time since the return of democracy that rank-and-file labour mobilisation appears to be the main drive for changes in Chilean employment relations.

Argentina

The main and long lasting effect of the processes of privatisation, downsizing and outsourcing of the 1990s in Argentina, has been the segregation of an important part of the population into a secondary labour market. In contrast to Chile however, traditional union organisations have recovered their importance, particularly since 2003.

Certain analyses have explained the resilience of traditional unions employing the concept of 'segmented neo-corporatism'. Etchemendy and Collier (2007: 366)

have described it as ‘a pattern of peak-level negotiation in which monopolistic unions, business associations, and the government coordinate on inflation-targeted, sector wide wage agreements and minimum wage floors, which apply to a substantial minority of the labour force’. According to this logic, segmented corporatism has helped large portions of formal workers to recover wage levels and to strengthen the role of the CGT, but also to simultaneously reinforce the divide between formal and informal workers.

Even if analytically useful to explain the resilience and limits of traditional union power in Argentina, a focus on peak-level negotiation risks losing sight of important local and grass-root phenomena. Indeed, over the course of the last two decades there have been important changes in the level, type and composition of struggles, following the ups and downs of the economic cycle. Based on the decline in the number of strikes relative to the total of social protests until 2002, some scholars have argued the demise of trade unions as the main promoters of social protest (Farinetti, 2002). But disaggregated data shows that half of social protests recorded between 1989 and 2002, corresponded to union initiatives, although strikes represented only 24% of them. Moreover, even between 1997 and 2002, when organisations of unemployed workers led the most radical struggles, unions showed a high level of unrest (Schuster *et al.*, 2006). It should not be surprising that with the economy growing at an average of 8% a year, unemployment diminishing, and a friendlier political environment, private sector strikes have recovered significantly since 2003 (Atzeni and Ghigliani, 2007). But the state has tightened repression since the second half of 2005, with police suppressing labour protests, sit-in strikes, and factory occupations.

Most importantly, the resurgence of labour activism in Argentina has featured a number of workplace structures across several economic sectors, including the Buenos Aires underground, hospitals, teachers, communications, airlines and workers from the meat, textile, rubber, metal, and food processing industries. These organisations have taken industrial action mobilising workers through grass-root democracy structures and maintained lengthy conflicts with significant media impact (Atzeni and Ghigliani, 2007).

They gained further momentum in 2009 when Buenos Aires underground and Kraft-food workers led a series of collective actions that questioned the oligarchic control and lack of democratic accountability of most traditional union leaderships, and opened a public debate on renewing the very model of Argentina's union organisation dating back to the mid-1940s (Vocos, 2010). However much an important development, this cannot hide the significant decline in and uneven nature of workplace union representation. In 2004, only 12% of formal sector enterprises had shop stewards, although in companies with more than 200 employees, this figure reaches 53% (Trajtemberg and Attorresi, 2005).

Conclusions

As this brief chapter has suggested, a more systematic comparative analysis of Chile and Argentina may contribute to address a number of broader theoretical and empirical issues. First, the comparison illustrates how the breakdown and reconstruction of employment relations institutions results from changing patterns of accumulation and the contentious interaction of class actors (Howell, 2005). Chile and Argentina have undergone broadly similar trajectories in their patterns of economic development, from *laissez-faire* to ISI, and from ISI to neoliberal restructuring. However, the milieus of political, economic, and social adjustments that have developed under these models have differed significantly between the two countries. While there have been strong common variables involved, concrete national realities have played a fundamental role in shaping the contours of change, continuity, and struggle (Patroni and Poitras, 2002). This has been particularly evident in terms of different political systems, economic structure, the nature and timing of initial labour legislation, the pattern of relationship between labour and the state and political parties, and the varying strength and organisation of employment relations actors.

Second, the traditional models of employment relations that accompanied ISI in both countries have undergone major transformation. As elsewhere, the exclusionary nature of the current pattern of accumulation –greatly associated with the notion of ‘globalisation’- has resulted in a tendency to the recommodification of labour, with dominant patterns of labour regulation becoming increasingly sensitive to

the prevailing balance of economic and political power (Contu and Murray, 2005; Western, 1998).

The most noticeable impact of neoliberal restructuring in individual employment relations in Chile and Argentina has been the significant increase in atypical forms of employment, precariousness, informality, and inequality. Although these problems are certainly not new, the current tendency represents a reverse of the historical trend toward increasing levels of formal good-quality employment and social mobility. Amongst other consequences, the high level of informal work undermines the validity of analyses based exclusively on the formal system of institutions and actors regulating the employment relationship. This also compels to rethink the prospects of extending protective employment legislation to the vast majority of the population and the potential role of trade unions in its promotion.

Organised labour has suffered a major setback in both countries as a result of the imposition of neoliberalism. In general, unions' capacity to affect the political and economic transformations on course, protect hard won rights, and organise an increasingly heterogeneous working class has been limited, but their decline has been significantly more pronounced in Chile than in Argentina. In both cases however, the drop in formal employment has created a radically different situation for organised labour. Indeed, as Patroni and Poitras (2002) argue, developing new strategies for organising workers in the informal economy will require not only a new capacity to experiment beyond traditional practices, but also the overcoming of some very concrete barriers emerging from the growing disparities in working experiences.

Fourth, despite the presence of strong common factors, the nature and effectiveness of workers responses has differed significantly in the two countries. While traditional unions in Chile engaged in social concertation and obtained meagre results, Argentina's exchanged flexibility for organisational privileges that have helped them maintain important portions of power. More importantly however, the recent rises in alternative labour activism in both countries suggest a renewed potential for contestation beyond traditional organisations. In Chile, the 'contract labour movement' has come to represent the hearts and minds of many a viable alternative to an otherwise terminally ill labour movement. In Argentina, alternative

organisations have promoted innovative forms of contestation and progressive forms of unionism, especially renewing grass-roots structures and experimenting with new forms of organising in the informal sector, have challenged traditional labour unions.

This is important in various respects. These experiences have shown once more that the influence of the structure of opportunity on the form and prospects of union strategy is not independent of the various types of union structures through which workers organise (Frege and Kelly, 2003; Kelly, 1998). Giving alternative networks of activists or groups of unorganised workers a similar ontological value than large union bureaucracies may allow us to develop more convincing arguments about the future of trade unionism. Moreover, although the above discussion may have implied that the national and firm levels are still the main levels of analysis, it is important to recognise that from the 1970s onwards, this two-fold distinction has become difficult to hold (Regalia, 2007: 2). Accepting the existence of a plurality of levels requires to empirically deconstruct the account presented above. Last, the overview presented in this chapter proves once more the centrality of workers in shaping the socio-economic processes that affect them, and the everlasting dimension of labour unrest under capitalism.

References