

LABOUR RELATIONS AND THE 1990'S EMPLOYMENT REGIMES IN CANADA AND BRAZIL

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INTRODUCTION

Structural changes over the last thirty years in industrialized societies have challenged the institutions that regulated the economy and the labour market during the so-called golden age of capitalism. Global competition, technological and organizational innovations, financialization of the economy, and service sector expansion are some examples of the complex social transformations that are creating new forms of economic and labour regulation.

In an environment marked by instability and uncertainty, state governments and corporations have focused their strategies of competitive adjustment on labour flexibility and deregulation and reductions in social expenditures. Although these meanings are diverse and the concepts are used to characterize specific situations, the idea of flexibility finds its most controversial dimension in the field of labour market regulation. Labour institutions and social security have come under attack by neoliberalism and its attempt to design self-regulated markets. The result of these changes is that both unemployment and precarious employment came back to threaten economic and social stability all over the world. This article analyzes, in a comparative way, labour relationships in both Canada and Brazil and the recent institutional changes in their employment regimes.

LABOUR RELATIONS IN CANADA AFTER WORLD WAR II

The system of collective bargaining in Canada has central importance in managing conflicts between employees and employers. From the post-war period to the middle of the 1970s, collective agreements carried out between unions and large employers, such as those within the automotive sector, were capable of influencing and spreading collective bargaining gains to workers from non-organized sectors. During the 1950s, for example, the labour movement had the power to obtain union representation rights and significant wage increases. During the 1960s, especially because of the activism and militancy of public sector workers, unions became even stronger. They succeeded in institutionalizing rights in the broader political arena by establishing anti-

discrimination and human rights laws (to protect people from discrimination based on ethnicity, race and gender, etc.) and extended minimum employment and social insurance rights through several Canadian provinces. The large private-sector unions - such as those in steel, transportation, communication and mining - homogenized gains in wages, benefits, and carrier plans, and consolidated combined strategies of action.

The democratic achievements of so-called industrial pluralism (Fudje and Tucker, 2000), however, affected Canadian workers differently. Unionization increases and collective bargaining benefits were centered in core industries, but only stronger unions were able to regiment their conquests nationally. As stated by Fudje and Tucker (*idem*: 277), union demands could not depart too far from market norms, while anti-discrimination law did not prevent employers from engaging in practices that negatively affected protected groups. This selective incorporation reinforced labour market segmentation in a way that, even during a golden period of economic growth and union strength, a majority of Canadian workers still depended on individual contracts and a minimum enforcement of employment law to determine their wages and labour conditions.

Canadian labour market segmentation had specific divisions. The composition of the secondary market, typically represented by low-wage skilled sectors and occupations, was marked by a disproportional participation of women and other marginalized groups, especially immigrant workers. This means that the primary labour market has been traditionally represented by male, white, bread-winning workers.¹ Although the 1960s and 1970s witnessed a significant growth of women's participation in unions and the labour market - particularly because of public employment and with it, the expansion of gender entitlements - they continued occupying positions in low-wage activities and sectors (Fudge and Vosko, 2001).

Immigrants represented the other large contingent of workers occupying "less noble" employment positions within the Canadian economy. During the 1990s, immigration was responsible for about 70% of the increase in the workforce, with the majority of immigrant workers being in unstable and low paying jobs. A social consequence of this segmentation was that it brought them different and unequal life opportunities with regards to living areas, access to justice, political participation, health, education and social security (Galabuzi 2004).

It was essentially these groups, along with young workers, that formed atypical employment regimes and accounted for a large bulk of the non-standard employment growth during the 1990s. Because collective bargaining is so strongly decentralized in Canada, different employees working for the same employer belong to different unions or bargaining units. This fragmentation, reinforced by different provincial legislation, makes very difficult the unification of collective bargaining once negotiations occur at the workplace level. As workers have the

liberty to decide whether or not they want union representation, union pluralism strengthens the complexity of the representative structure, but weakens the potential for union harmony and expansion (Chaykowski, 2005; Jackson R. 2005; Jackson A. 2005).²

Although fragmented, the Canadian labour movement has a political importance beyond the world of workplace disputes. It is a key part of the broader social democratic movement and, despite some decline in the unionization rate, is still an important power in the fight for equity and social justice. Taras et al (2005) estimate that about 48% of Canadian workers enjoy some access to formal collective representation. Unionized workers have better wages and benefits and are more protected against discrimination than non-unionized workers. The median union wage premium (the difference between union and non-union wage) was 14.3% in 1999, this differential being even larger between low skill occupations (Frost and Taras, 2005; Jackson A, 2005).

The painful economic recession from the early 1990s, which increased the unemployment rate to almost 12%, and the expansion of the service sector, where unionization is traditionally low, had a significant impact on union density and bargaining power. The rate of unionization dropped from 33.2% in 1992 to 31.7% in 1997. This compares to a rate of 43% in manufacturing industries in 1976 (Fudge and Vosko, 2001). A vital portion of this union density is represented by public employees, since the majority of workers from small companies, especially in service activities, are non-unionized in the private sector.

During the 1990s, changes in business strategies and the economy as a whole furthered the downward trend in union strength. Corporate restructuring focused on dismantling vertical structures and subcontracting, which had a decisive impact on labour market segmentation. This also occurred in small companies, where it is already more difficult to organize workers. Still, according to Fudge and Vosco (*idem*: 290), between 1979 and 1989, almost 90% of all employment growth in Canada was generated by businesses with less than 100 employees. In 1991, a little more than half of all Canadian workers were self-employed or worked in firms with less than 100 employees. This leads us to conclude that the weaknesses of unions are related to their inability to expand to workers from these small firms and to those within the traditional service sectors (finance, retail, hotels, restaurants, personal services, etc.), which is fertile terrain for the proliferation of precarious and insecure employment.

CASUAL, CONTINGENT, PRECARIOUS: THE KIND OF JOBS THAT INCREASED IN CANADA DURING THE 1990s

During the 1980s and 1990s, employers' search for more flexibility and market competition encouraged the proliferation of atypical employment regimes challenging the standard employment patterns established in the post-

war era. Firms preferred to contract casual, temporary, part-time, and/or self-employed workers. Employers not only demanded more flexibility in employment terms and conditions, but also - and more predominantly - lower labour costs. According to Taras et al (2005), only 54% of Canadian workers belong to the *standard employment* category, the other 46% are self-employed or in a situation of part-time or temporary employment. Although the wages and conditions of these employment regimes are quite heterogeneous, they are also less stable and durable. This insecurity is illustrated by the provision of lower wages and weaker fringe benefits, a marked shift from the pay and benefits assured by *standard employment*.

Part-time employment is associated to a work time of less than thirty hours a week. The proportion of workers in these jobs rose from 11% in 1976 to 17% in 1994 (Fudge e Vosko, 2001). The advantage to employers is that they pay only part of the compulsory social contributions. Women's participation in the labour market had significant influence in part-time employment growth. It is women who, along with young workers, dominate this kind of employment, not necessarily by choice, but for the lack of full-time offers (Jackson A, 2005).

Temporary employment is another key business strategy to make contracts more flexible. Hiring temporary workers means that employers (both public and private) exempt themselves from the responsibility of paying higher wages and greater benefits, workers' compensation premiums, as well as from procedures related to hiring, firing and training. The proportion of the workforce employed in temporary jobs increased from 7% in 1989 to 11% in 2003. Most prevalent in this category were younger workers, who in 1995 represented 32% of all temporary workers in Canada (Fudge and Vosko, 2001; Jackson A, 2005). With this comes the increase in the number of private "temp" agencies responsible for intermediating workers.

Mainly because of low wages and benefits, the proliferation of these forms of precarious employment is increasing the number of multiple job holdings per person, another sign that many Canadians have to work longer just to maintain their standard of living. The combination of temporary work (which among the self-employed represents almost 15% of the workforce) and part-time employment by multiple job holders marks a deep labour market polarization in Canada. In addition to this, the working day is becoming longer. According to a federal government report (see Taras et al, 2005:19), only about 33% of the workforce keeps standard business hours (Monday to Friday, 9:00 a.m. to 5 p.m., in a full time job at the employer's workplace); and almost 25% of all workers put in fifty hours per week or more (counting overtime, travel and office work brought home).

At the same time, there was no average real wage gain for workers in recent years, despite low inflation, low unemployment and significant GDP growth. The average hourly wage was \$17.48 in 1993, adjusted for inflation of the period, but was

\$17.70 a decade later (Jackson A, 2005). The wage proportion of total GDP has been falling in the last few years.³

Inequality in income growth can be better understood by looking at the percentage of workers living in poverty. In 2003, about one in four Canadian workers received low wages (which is defined as lower than 66% of the national median hourly wage, or less than \$11 per hour). More specifically, about one in five men and one in three women are low paid (Jackson A, 2005). This, along with reductions in government transfers, especially in Employment Insurance and social assistance benefits, creates for many Canadians a life of poverty.

This income polarization embraces not only wage inequality and employment instability, but social insurance policies formulated by the state. The deterioration of even minimum employment standards, as well as the difficulties of organizing sectors where there is increasing precarious employment (mainly because of legal restrictions), illustrate a trend towards the *re-commoditization* of labour relations in Canada. During the 1980s and 1990s, neoliberal policies, corporate restructuring, weak enforcement of labour laws and limited state policies created a *downward harmonization* which has contributed to *regulate precariousness* (Fudge and Vosko, 2001, 2001a), increasing labour market polarization and inequality.

LABOUR RELATIONS IN BRAZIL⁴

Although Brazil was becoming re-democratized by the late 1980s, collective bargaining rights were far behind those which had been achieved throughout the developed world. The state assumed a key role in mediating and regulating the interests of employers and employees. At the beginning of the 1940s, the *Consolidação das Leis do Trabalho* – CLT (Brazil's Labour Law), defined the basic labour rights that are still in force today. The CLT responded to early industrial workers' demands for political incorporation. This happened in a limited way in two forms.

First, even minimum labour rights and union legislation ignored the plight of rural workers - at that time a large majority of the workforce - and public servants.⁵ Second, a large number of urban workers did not enjoy regular employment in the formal economy and therefore were excluded from state-defined social insurance policies and programs. In Brazil, as in Canada, the limited incorporation of workers to capitalist expansion was responsible for the formation of a segmented labour market. The difference was that workers in Brazil faced far greater social injustice. The segmentation generated an informal labour market and constituted an employment regime completely lacking in rights.

With controlled unions and the majority of workers without entitlements, economic growth took place without across-the-board increases in workers'

income, let alone any commitment by the state to a policy of full employment. Some structural unemployment was beneficial to business interests and functioned to expand the labour market of very low wage and precarious jobs.

The lack of any notion of citizenship rights for the poor and the working class contributed to the structural heterogeneity of workers employment conditions. This restricted the range of social and labour statutes, creating a model of formal employment rights for some alongside a marginalized and informal labour market for others. This reality was deeply aggravated during the 1990s, with the number of informal jobs surpassing those of the regulated employment sector, as we will see later.

CONTROLLED UNIONS AND AUTHORITARIAN MANAGEMENT

State control over wages and strike limitation and/or prohibition, especially under authoritarian governments, withdrew any real collective bargaining power from unions. Conflicts between labour and business usually resulted in breaking the law and were normally solved through labour court mediation. This prevented unions the space to confront managers' despotic practices, so that any resistance or challenges by workers in the workplace remained latent or repressed, with no legal possibility of becoming recognized collective claims.

At the same time, union legislation created a structure that made it difficult or even prevented unions from cooperating through a more centralized bargaining unit. Forming trade unions was forbidden until the establishment of the 1988 Constitution. But even today, while trade unions have a considerable political role, they do not have legal bargaining power. This vertical and decentralized structure has been responsible for the union movement's extreme fragmentation (sometimes even within the same company), which weakened the workers' bargaining power.

This weakness, however, needs to be understood in its historical process. The exclusion of the majority of workers from the national development project at the beginning of the 1960s fostered large waves of protest, many of them based on revolutionary ideology, opening the way to a conservative authoritarian backlash by the dominant class. During the post-1964 regime, which established more than twenty years of dictatorial government, class struggles by workers were dealt with in an extremely repressive way. The regime removed left-wing political parties, intervened directly and extensively in unions, and persecuted, banished, tortured or assassinated militant workers and union leaders. Social movements and strikes were crushed violently and state intervention restricted unions to bureaucratic and *assistencialist* activities.

This meant that as Brazil experienced the so-called "economic miracle," unions could not fight for wage gains tied to productivity. Within companies,

predatory, personal and authoritarian forms of labour management predominated. The so called *Novo Sindicalismo* was an important mark in challenging that authoritarian order. In the late 1970s and early 1980s, waves of strikes took place throughout the country, supported by large popular movements, demanding union autonomy and political rights. The *Novo Sindicalismo* had arisen from shop floors to struggle against employers and the state and to promote collective bargaining, representation in the workplace and the right to strike. At the same time, it led a social movement that fought for Brazilian re-democratization.

The culminating point of these struggles was the Constitutional Reform of 1988, in which more democratic principles were established. These included, among others, the right to collective bargaining, the right to strike, and the freedom to establish unions apart from state control. The following years saw an increase in the membership of unions as well as a strengthening of collective bargaining. This new labour movement, however, was not able to change Brazil's extremely fragmented approach to union representation, divisions within unions, employers' resistance, governance crises and economic instability. It also failed to bargain for broader employment and income improvements.

During the 1990s, neoliberal economic policies such as privatization, a tightening of the money supply, downsizing, out-sourcing and contracting out helped create a recession that led to massive layoffs. In 1997 and 1998, a federal act institutionalized the following: temporary interruption of employment, pre-determined contracts with reduction of compulsory social contributions, wage decreases along with working day reductions, and labour cooperatives which stimulated self-employment growth, etc. The structural fragilities of the Brazilian labour market (low wages, excessive instability of employment, low workers' skill), along with other measures, led to a deterioration of employment conditions (see Krein, 1999).

ENLARGEMENT OF THE PRECARIOUS EMPLOYMENT REGIMES IN BRAZIL DURING THE 1990'S

Throughout the 1990s, the high unemployment and economic uncertainty reinforced by a long and painful recession weakened the position of labour in disputes with employers. Government policies were grounded in tight monetary strategies and fiscal adjustment, which led to cutbacks to social programs such as education and health care. Although the high inflation rates of the 1980s had been reduced to a stable level, there was not enough employment growth. As a result of industrial restructuring and neoliberal state reforms, the 1990s experienced the extinction of almost 3.3 million formal jobs (Mattoso, 1999). Despite all the rhetoric about labour flexibility being a key to reducing

unemployment, by the end of the decade, the unemployment rate had reached a level never seen before in Brazil.⁶

People predominantly searched for income within the informal market where there are several forms of temporary, irregular, precarious and self-employment.⁷ It was obvious, during this period, that the numbers of people working in the streets of urban areas selling all kinds of goods (clothes, food, imported products) had increased. This activity was related to a clandestine economy formed by small businesses. Also remarkable was the growth in the number of workers performing old activities that are not recognized as regular jobs: car keepers on the streets, recycled garbage collectors, ambulant workers making ads, shopping porters, casual domestic workers, etc. The percentage of the Brazilian workforce employed in the formal economy dropped from 53% in 1991 to 45% in 2000. The percentage of the workforce in the informal economy grew from 36.6% in 1986 to 50.8% in 2000 (Sabadini & Nakatani, 2002; Cacciamali, 2000).

Another result of these structural changes in the labour market was an increase in what was internationally recognized as one of the most unequal concentrations of income in the world. Recent research carried out by Dedecca (2003) shows us that the percentage of the paid workforce within the total economically active population dropped from 84% in 1992 to 81% in 1999, while wage share as a percentage of Brazilian GDP dropped from 37.5% to 32.8% between 1991 and 2000. In contrast, the corporate gross profit rose from 38.5% to 41.4% of GDP during the same period.

Although market income from informal labour is not represented in these statistics, unemployment and precarious employment growth during the 1990s was responsible for increasing the number of people living in absolute poverty. According to the *Fundação de Pesquisa Econômica* in São Paulo, the biggest Brazilian metropolis, the number of homeless people increased 20% between 2000 and 2003. Other research, such as the so-called *O Mapa da Fome* (the Famine Map) from Fundação Getúlio Vargas, illustrates that 29.3% of the Brazilian population live under the poverty line, defined as those receiving a median wage of \$33 (U.S.) a month or less per person. This number jumps to 50% of the population in northern Brazil, giving us an idea of the country's socio-economic regional disparities (*Jornal do Brasil*, 10/07/2001).

This reveals the immense challenges facing Brazilian democracy. The experience has demonstrated that labour flexibility, along with a lack of welfare protections, resulted in a reduction of labour rights and an increase in the precariousness and flexibility of work. An opposite trajectory will have to be found by regulating the informal labour market to ensure minimum labour and social rights to all workers, and by strengthening unions' ability and power to represent workers throughout the economy.

CONCLUSION

The interventionist logic from the late 1930s to the 1970s was common in both Brazil and Canada. The specificities between the two are revealed in the intensity, extension and grade of autonomy with which the state ensured labour and social rights - all of which were much stronger in Canada. Generally, the autonomy entitled to Canadian unions, however limited, is one of the key elements to historically distinguish the formation of labour relation systems in the two countries. It made possible, by means of collective bargaining and broader political institutions, a more equal distribution of wealth in Canada. This distribution can be thought of not only in terms of economic achievements, but also in terms of the role of the welfare state. Conversely, in Brazil, during significant periods of economic growth, state control over unions, as well as social movements, found these groups excluded from any dialogue regarding income distribution or collective economic policies. Collective bargaining, as the most democratic mechanism for redistribution of economic growth, has never had the political importance in Brazil as it has had in Canada, even as it is becoming less prevalent in the latter.

The formation of polarized labour markets is common to both Brazil and Canada. Brazil's extreme economic inequality is partially due to a complete lack of regulation, and therefore, a lack of rights for the majority of workers. Canadian workers find themselves in a better situation, still protected by minimum working standards and a stronger welfare state.

In both countries, labour market fragmentation can be explained, in part, by a strongly decentralized collective bargaining structure and other union arrangements that make cross-industry co-operation difficult. This tendency has been reinforced since the 1980s, when corporate and economic restructuring undermined the union movement by creating more flexible and deregulated labour markets.

It is necessary, however, to remember the specificities of each country. The challenge in Canada is to re-regulate labour markets to ensure and expand rights, especially by permitting greater union organization. In Brazil, the challenge is more Herculean. It does not only involve re-regulating the labour market to strengthen union representative power, but also consists of regulating the informal labour market, which means ensuring universal, minimum labour standards and social security rights. These tasks demand a strong welfare state in order to ensure fundamental citizenship and social rights for working people.

NOTES

¹ Typically, workers in the primary labour market work for big employers, are more organized, have better skill levels and, as a product of collective bargaining, have more employment security and better wages

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- and benefits. In the secondary labour market, which is strongly competitive and labour intensive, workers are less organized, more prone to accept any job, have less employment stability and lower wages.
- ² Campolieti et al (2005) illustrates how employers can delay the certification process and destabilize workers' support or consent for the union. Explicit anti-union practices by Wal-Mart are an emblematic case.
- ³ The inflation rate in Canada dropped from 12% at the beginning of the 1980s to around 7% in 2003. The medium unemployment rate reached 12% at the peak of the 1992-1993 recession. Although it was stabilized to 7.3% in 2003, it is still far higher in some regions. The median GDP per person during the same period increased 25%, but real personal income increased at only half that rate, which meant an increase in corporate profits as a percentage of national income. This corporate share registered a jump of 10.6% of GDP in 1988, bottomed out at 4.7% in 1992, then jumped again to 12.6% in 2000, remaining above 12% in 2003 (Jackson A, 2005). Still, according to this author, there were significant increases in corporate profitability, which have benefited even more from corporate tax cuts.
- ⁴ The complete version of this section can be found in Costa (2005).
- ⁵ Rural workers remained a large portion of the workforce until the end of the 1960s, when countryside conflicts were exacerbated. Public servants remained submitted to the state's patrimonialist bureaucracy. A statute of rights and duties was instituted only at the start of the 1990s.
- ⁶ According to the Brazilian Institute of Geography and Statistics (IBGE), in 1998 there were seven million unemployed workers (9.2% of the economically active population). In 2000, unemployment reached 11.5 million, or almost 15%.
- ⁷ Self-employment increased approximately 10% between 1992 and 1999, representing 15.7% of the Brazilian work force in 1999.

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