

Labour law and worker protection in emerging countries

➤ APPENDIX 1 - BRAZIL

In Brazil, as in most countries, labour law, worker protection, and social context are influenced both by the historical and political evolution of the country. As in some Western European countries, the transition from an authoritarian toward a democratic regime brought with it the development of trade unions close to the political parties still in power today, and saw protective but inconsistently applied labour law giving way to more effective legislation and significantly improved working conditions.

Brazil nevertheless remains confronted with sizeable challenges, mainly due to the high share of informal workers in the country (nearly one half of the population) and its highly segmented labour market. Faced with these challenges, it has focused on innovative programmes to fight poverty. However, it has initiated few labour market reforms, which has led to growing protest from movements opposing the historical unions. ■

LABOUR LAW AND WORKER PROTECTION IN BRAZIL SINCE 1920: TOWARDS A GENUINE SOCIAL PROTECTION SYSTEM

Brazilian labour law was not very protective until the 1920s, at a time when it was mainly concerned with meeting economic objectives and based on free-market ideology with few restrictions. It did not become independent until the late 1930s and the creation in 1943 of the *Consolidação das Leis do Trabalho*⁽¹⁾ (Brazilian Labour Code or CLT) under the dictatorship of Getúlio Vargas⁽²⁾. Today, it might seem quite favourable to workers, both for its time and for a country governed by an authoritarian regime. This can be explained by Vargas' position regarding the Brazilian population during the *Estado Novo*. He introduced particularly protective legislation to avoid social unrest during the industrialisation process. At the same time, he needed continued support from the bourgeois elite as well as from Brazilian and foreign entrepreneurs to remain in power, and these feared that workers would be overprotected. As a result, although labour law was introduced, it was rarely enforced⁽³⁾. Strikes were prohibited under the 1937 Constitution and anyone found responsible for political or industrial unrest risked imprisonment or worse.

Some aspects of Brazil's present trade union scene date from that period. Labour law set up at that time was based on anticommunist doctrine and inspired by the totalitarian and corporatist systems of Mussolini's Italy or Franco's Spain, with the result that law could vary according to trades or professions. This long tradition has left its mark on labour law and industrial relations even today, in spite of the large national trade unions⁽⁴⁾.

A new hierarchy of standards and stricter application of existing legislation emerged from the popular uprisings of the 1970s and the "partnership" between the union rank-and-file and the political left. With new-found militancy, unions criticised how the CLT was applied and the resulting labour relations system. In 1980, Luis Inacio da Silva (Lula), the leader of one of these union movements, called for the creation of the *Partido dos Trabalhadores*, a new workers' party, to unite all the spontaneous social movements of various persuasions that had sprung from the corporatism generated by the CLT⁽⁵⁾. The structural adjustment of the 1980s led to slower economic growth and rising poverty, spurring successive governments to develop assistance for the poorest members of the population as from the 1990s⁽⁶⁾.

Faced with the worsening economic situation (5,000% inflation in 1994, 2.4% growth in 1986, down from an average of 6% in the 1970s), the Finance Minister, Fernando Cardoso, implemented the Real plan (1994), the most ambitious economic plan the country had ever known. It introduced a new currency (the Real), cut public spending (without reducing purchasing power), privatised public banks, opened the borders and loosened restrictions on foreign investors. These measures led to stronger growth as from 1999 (average growth was 3.3% from 2004 to 2010) and the new Brazilian Government led by Lula saw unemployment start to fall in 2004 (5.8% in October 2011)⁽⁷⁾, a downturn in poverty and 15% growth in the tertiary sector from 1985 to 2007. At the beginning of the 2000s, the informal sector grew (from 46.3% to 49.5% from 2000 to 2007)⁽⁸⁾ as the large number of new arrivals on the labour market could not be absorbed by the formal sector alone (which accounted for 19.7% of the jobs created during the period). Informal work is now following a downward trend, falling to 38.42% in 2009 and 35.6% in 2012 despite the economic recession⁽⁹⁾.

[1] Decreto-Lei No. 5452, of 1 May 1943.

[2] This does not mean that there was no labour law prior to that time. In 1930, it was already forbidden to employ children under 12, and legislation existed on occupational accidents and paid leave (a fortnight). However, it was from then on that it really developed.

[3] J.D. French speaks of a culture of paternalistic authoritarianism in Brazil that allowed this ambivalence: an authoritarian regime, but protective labour law; see French J.D. (2004), *Drowning in Laws: Labor Law and Brazilian Political Culture*, Chapel Hill: University of North Carolina Press.

[4] See The French Embassy in Brazil (2012), *La protection sociale dans les pays émergents - Le cas du Brésil*.

[5] Although the union movement of the 1970s-1980s took the opposite view to corporatism, many small unions are still driven by this logic that Brazilian legislation has not completely eradicated. Lula himself was originally from the powerful metalworkers' union.

[6] Cf. below "Guaranteeing a minimum income for the most deprived".

[7] Data: Instituto Brasileiro de Geografia e Estatística, 2012.

[8] ILO Figures, *Decent Work Country Profile Brazil*, 2008.

[9] The French Embassy in Brazil (2012), *op.cit.*

THE BRAZILIAN LABOUR MARKET STILL CHARACTERISED BY SEGMENTATION AND INFORMAL WORK, DESPITE TIGHTER CONTROL

Although the informal sector has declined in recent years, it remains significant. It mainly concerns some categories of population, and certain types of job. Brazil has sought to reduce the informal sector by making its legislation more effective through increased inspections and reinforced labour laws.

■ Informal work in Brazil mainly concerns domestic workers and the primary sector.

Like unemployment, informal work does not affect all categories of the population equally. It mostly concerns the least economically secure (women, black populations and some categories of unskilled young people). In 2007, informal work affected 6% more women than men and was 13.5% more prevalent in black than white populations⁽¹⁰⁾, despite the quotas set up under Lula's Presidency.

These figures should also be correlated with the sectors of activity that are mainly concerned by precarious forms of employment. Many domestic employees, for example, continue to work in the informal sector in spite of improved worker protection. This is largely due to the fact that many Brazilian families still have domestic employees. This is particularly the case among the well-off classes and even more so in the middle classes, who have begun to represent a higher percentage of the total population in recent years. These workers are generally less qualified and predominantly female and black. Although the informality rate among these employees fell by 8.7% from 1992 to 2007, only a third of them currently enjoy any work-related protection, and many of them are encouraged by their employers to adopt self-employed status. The informal sector also concerns 80% of agricultural workers. These jobs are often occupied by black workers in remote regions.

The primary sector is regularly the scene of tension among farmers (*brasiguayos*) – who still account for 20% of the population although their number is falling every year – and large landowners (1% of landowners own 50% of utilised agricultural land in Brazil)⁽¹¹⁾. Agrarian reform measures aimed at more equal land distribution had been announced, but these turned out to be nothing more than a continuation of previous policies, introduced along with support for the agribusiness and export sectors. Only measures such as the *Programa Nacional de Fortalecimento da Agricultura Familiar* (National Programme for Reinforcing Family Farming, or PRONAF) in support of family farms were actually implemented. Under this programme, credit became available for funding family farming at relatively low interest rates.

Informal work also conceals another reality in the primary sector, namely forced labour. Under impetus from the *Comissão Nacional Para a Erradicação do Trabalho Escravo* (National Commission for the Eradication of Slave Labour or CONATRAE), the Brazilian Government has strengthened labour inspection resources in an effort to eradicate forced labour. According to figures from the *Comissão Pastoral da Terra* (Land Pastoral Commission or CPT), a militant movement in rural areas, 25,000 people (or *escravos*) are subjected to working conditions close to slavery⁽¹²⁾. Victims are often illiterate, very poorly skilled persons who, in an attempt to escape poverty, have borrowed from creditors. Unable to pay back what they owe, they are then forced to work for their creditors under very poor working conditions. Generally observed in remote farming areas, these practices are mostly organized by large stock farmers in the Amazon, although they are now reappearing on sugar cane plantations in the southern states. They are the consequence of territorial inequalities in a country with an area twelve times that of France, and where inspections remain difficult in the remotest regions. The *Territórios da Cidadania* (Territories of Citizenship) programme, was set up in 2008 to close the development gap of the poorest states (mainly in the Nordeste and Norte regions). It has been allocated a €4.3 billion budget to coordinate government and local authority action more effectively and focus on promoting social and economic development in areas which are often agricultural.

[10] *Op. cit.* ILO Figures.

[11] Cf. in particular, Mançano Fernandes B. (2010), "Réforme agraire et mouvement des sans-terres sous le gouvernement Lula" (Agrarian Reform and the Landless Movement Under the Lula Government), *Alternatives Sud* Vol. 17-2010/105.

[12] As this work is illegal and carried out in isolated areas, it is hard for NGOs and state authorities to verify this figure.

Owing to its size and history, Brazil has not enjoyed uniform economic development. At the same time, labour law was not applied evenly across the country, whether under the authoritarian regimes or in the early years of democracy.

■ Labour inspection bodies

Brazil has set up various social inclusion schemes⁽¹³⁾ to reduce the informal sector. Their aim is to improve worker protection in the formal sector to increase its attractiveness. But this policy can only succeed if social laws are enforced and inspected, which are tasks for the labour justice organs and the work inspection respectively.

Labour law is implemented on various levels: at the first level of proceedings, there are 1,109 *Varas do Trabalho* (industrial tribunals) whose jurisdiction is specified in Articles 652 and 653 of the CLT. They are made up of non-professionals and professionals, comprising staff representatives, employers, and professional judges. In areas where there are no specialised tribunals, an ordinary judge can perform these duties, but the Government has been trying to set up new labour tribunals in such areas since the mid 2000s. Appeals against the decisions of these first-level courts can be brought before one of the 24 *Tribunais Regionais do Trabalho* (regional labour tribunals or TRTs). There is generally one TRT per State, except for Sao Paulo. Under labour laws, the final appeal is before the *Tribunal Superior do Trabalho* (superior industrial tribunal or TST), comprising 27 professional judges appointed by the Brazilian Presidency after approval by the Senate. Today, labour law is generally enforced uniformly throughout the country when a dispute is brought before a tribunal. The main difficulty is enforcing international agreements that have not been ratified and discovering breaches of labour law.

The labour inspection was set up at the end of the 19th century but did not become part of the Ministry of Agriculture, Industry, and Commerce until 1931. Governed by a regulatory system set up in 1965 and 1978, there are slightly more than 3,000 labour inspectors today. As well as inspecting compliance with legislation of employment contracts, in particular regarding child labour and eradicating forced labour, their responsibility was broadened in the 1980s to include health and safety matters. Through their action, it is estimated that some 800,000 people move from the informal to the formal sector every year, although inspections mainly target the formal sector. Their resources are limited by their small number and the size of the area their inspections must cover. Their safety is not always guaranteed⁽¹⁴⁾ in the remotest areas and this limits their effectiveness. Their work also relies on the labour tribunal system that takes over from them.

To be effective, the labour inspectorate and tribunal system require recognition of the standards they wish to see enforced. This recognition will be all the clearer when the standards are negotiated both by management and labour representatives.

🔗 LABOUR LAW AND THE PARTICIPATION OF THE SOCIAL STAKEHOLDERS TO A LIMITED SOCIAL DIALOGUE

Although Brazilian labour law has changed very little since the 1940s, it is enforced more effectively now, thanks to the unions' contribution to the democratisation process in Brazil. Often considered among the most leading and advanced country in worker protection, the unions no longer play the same role as they did in the 1980s. They now need to think up new forms of action.

■ Labour law in Brazil

The Federal Constitution of 5 October 1988, written under José Sarney's Presidency, is at the top of the hierarchy of Brazilian norms. It recognises social rights for employees. Thirty-four rights are set out in Chapter 2, Article 7 of the Federal Constitution: protection from arbitrary dismissal, existence of a minimum wage (see box 1), right to a year-end one-



[13] Cf. below, "Guaranteeing a minimum income for the most deprived".

[14] In January 2004, three labour inspectors were killed on orders from a major landowner.

salary bonus, existence of maximum working hours, pay for overtime, maternity and paternity leave, provision for advance notice of dismissal, prohibition of discrimination in hiring criteria and between manual and intellectual work, etc. Further aspects of labour legislation are essentially part of the Brazilian Labour Code. Lastly, collective bargaining agreements are recognised at various levels but are not uniformly enforced. Employers can be represented in negotiations by a local employers' association, a group of such associations, a federation, a group of federations, or a confederation. Employees can be represented by trade unions of particular businesses, companies or groups, or a national confederation. Depending on situations, the agreement enforced will be whichever is the "most favourable to employees".

Box 1

Minimum wages and working hours

A guaranteed minimum wage and the payment of a number of salary-related benefits were set down in the Constitution in 1988. Brazilian workers are entitled to a year-end one-salary bonus paid in two instalments (one in November and one in December). Overtime is paid one and a half times the normal rate of pay, except for hours worked on Sundays and public holidays, which must be paid at twice the normal rate. Night work is paid 20% more than equivalent day work, and those doing work considered dangerous are paid 40% more. Overtime is limited to two hours a day or such as to obtain a total working week of 57 hours. The minimum wage was introduced by a Law of 1936, with conditions set out in an implementing decree of 1940 (Decree-Law 2.162). It was initially determined by geographic area and only intended to cover basic living needs. As of 1946, the family structure (number of children) was also included in its calculation. After the *coup d'état* of 1964, it was decided that any review of the minimum wage would be tied to economic growth and inflation, which led to a considerable drop. In 1984, it was harmonised across the country before the right to a minimum wage was set down in the Constitution in 1988. The minimum wage was reviewed monthly during the period of inflation in the early 1990s, and yearly as of the *Real Plan* of 1994 (every April since 2000). During Lula's terms of office, the minimum wage rose by 53.67%. This is not a large increase given the inflation rate^[15], but is significant compared with the average wage, which rose from €502.25 to €623.51 (i.e. by 24.14%) between^[16] 2003 and December 2011. Workers on minimum wage are mostly women and those employed in the poorest states (in particular in the Nordeste region). These categories are the most economically insecure and the first affected by labour market segmentation. In August 2012, the minimum wage was 622.00 Brazilian reals, i.e. about €239.00. The legal working week in the formal sector is 44 hours, but Brazilian unions are now campaigning to reduce it to 40 hours. According to the International Labour Organization (ILO), the actual working week was 40 hours in 2009, varying according to the employees' gender (38 hours for women and 41 hours for men). Working hours may also be shorter in some sectors of activity. These figures are not representative, however, as they do not include the informal sector, in other words slightly less than one in two workers.

The right to dismiss is based on the concept of "fair cause": there is fair cause for dismissal in the event of misconduct by employees. In this case, they are entitled to no compensation other than payment of their wages for the current month. In the case of unjustified dismissal, employees are entitled to thirty days' notice, their wages for the current and the following month, a third of their annual bonus, and any amount available in their "severance compensation fund account"^[17]. In 1996, Brazil denounced the ILO Convention 158 on Termination of Employment^[18], shortly before it was included in the "fundamental ILO Conventions"^[19]. In 2008, President Lula da Silva submitted it for ratification to the National Congress, which voted against it.



[15] According to the Inter-Union Department of Statistical and Socio-Economic Studies, the increase should have been four times higher, since inflation from 2004 to 2012 varied from 3% to 8% per month according to Brazil's Central Bank.

[16] Source: *Instituto Brasileiro de Geografia e Estatística* (Brazilian Institute of Geography and Statistics or IBGE).

[17] Cf. p. 8, "Guaranteeing a minimum income for the most deprived".

[18] For example, Brazil has not set up any procedure for consulting worker representatives in the event of collective redundancies, contrary to the terms of Article 13 of the ILO Convention 158 on Termination of Employment.

[19] ILO Declaration on Fundamental Principles and Rights at Work, 1998.

Under the CLT, the employment contract is the prerequisite for application of the law. Contracts may be fixed-term or open-ended. Each type is governed by specific provisions and meets legally specified requirements. The open-ended contract is the norm, the fixed-term contract is the exception. The latter may only be entered into under certain circumstances⁽²⁰⁾: momentary increase in business, acquisition of new facilities or equipment requiring additional support, trial period. Its term may not exceed two years. A fixed-term contract may be renewed only once, otherwise it becomes an open-ended contract.

As in most emerging countries, particularly in Brazil, where industrialisation dates back to the 1930s, accidents at work still occur regularly. A mandatory system of contributions paid in to an insurance company was set up in 1919 to compensate victims of such accidents. Although Brazil is regarded as a world leader in protection against those accidents, it still paid nearly 680,000 invalidity allowances to accident victims in 2010 for a total amount equal to 0.15% of its GDP. The most economically insecure workers are the main beneficiaries⁽²¹⁾.

Brazilian labour law has also been affected in recent years by the country joining Mercosur (Southern Common Market) which ties it to Argentina, Uruguay, and Paraguay under the Treaty of Asunción in 1991⁽²²⁾. In December 1998, the members of this regional organisation signed a “*sociolaboral*” declaration setting out certain work-related fundamental rights and principles. The declaration, which is only a soft law instrument as it includes no mandatory commitments, was adopted because no agreement could be reached on a more restrictive treaty. Although the declaration may have little real substance, it can be seen as a major step forward for an organisation that is mainly concerned with commerce and free trade. While the CLT is the main source of labour law in Brazil today, Mercosur members are introducing conventions and agreements on labour-related themes⁽²³⁾. These are regional agreements and could thus have a legal impact inside Brazil in the future.

The sources of labour law also vary with the category of worker. This is true for some public sector employees and even more so for farm and domestic workers. That does not mean that these categories are excluded from Brazilian legislation but that they are also covered by other laws (such as Law No. 5.859 of 11 December 1972, as amended in 2006, on domestic workers; Law No. 5.889 of 8 June 1973 on farm workers; Law No. 8.112 of 11 December 1990 on civil servants of the Union, States or Federal Authorities).

According to the period, the status of civil servants has been the same across the Union or devolved to the Federal States⁽²⁴⁾. Civil servants now come under two separate systems, determined by the Federal Government: those employed by the Federal Government, municipal authorities⁽²⁵⁾, and federal public foundations come under Law No. 8.112 of 1990. Other public sector employees are governed by the CLT. All these laws are subject to the provisions of the Brazilian Constitution, which endorses this distinction between civil servants who are recruited through competitive examinations, and other public sector employees. The latest wave of social movements to hit Brazil, which occurred between June and August 2012, began among public sector employees and spurred the Government to become more involved in social dialogue.

 [20] Article 443 of the CLT.

[21] Source: The French Embassy in Brazil (2012), *op. cit.*

[22] Treaty of 26 March 1991, *Establishing a Common Market between the Argentine Republic, the Federal Republic of Brazil, the Republic of Paraguay and the Eastern Republic of Uruguay*, setting up Mercosur, or Mercosul as it is known in Brazil. Venezuela also joined this regional organisation on 31 July 2012.

[23] On 29 June 2012, the Presidents of Mercosur adopted the Second Declaration on the Prevention and Eradication of Child Labour, a goal they intend to achieve through greater dialogue among governments.

[24] A general system applying across the civil service was initially provided for under the Federal Constitution. That changed when the Federated States were given greater autonomy and could determine what system to apply to the various civil service categories.

[25] The smallest administrative unit in Brazil is the *município*. There are 5,565 of these across the country, most of which are made up of a town and its urban area.

■ Unions and collective bargaining

The role of Unions, which simply acted as trade associations in the 1960s, increased with the 1988 Constitution, which removed the requirement of a minimum level of representativeness. Those with shared interests have sometimes joined together, with the liberalization of the economy. In 2003, there were two main unions: the *Central Única dos Trabalhadores* (Unified Workers' Union or CUT) and the *União Geral dos Trabalhadores* (General Workers Union' or UGT), and other smaller unions:

- ▶ The CUT is the largest trade union. It was founded in 1983 by Luiz Inácio da Silva, leader of the metalworkers' union, later to become President of Brazil⁽²⁶⁾. Lula was the first to break with the traditional practices of Brazilian trade unionism, abandoning the corporatism and political rallying of the time. The CUT leans to the left (socialist) and maintains close ties with Lula's Workers' Party. According to its statutes, its role is to "organise, represent and campaign for all workers, whether from town or country, public or private sector, in active employment or not, to improve their working and living conditions, and for a democratic society". It is also the largest trade union in Latin America and allegedly the fifth largest in the world, boasting 3,299 affiliated sector unions, 7,116,278 members, and 21,092,160 supporters. A supporter of Lula's candidacy in 2003, the union is now openly criticised on its left wing by a movement that is trying to organise itself independently and attacking the union for supporting the policies of a Government that has "converted to neo-liberalism".

The union is organised federally and has one branch per State. It includes federal and confederal unions grouped together by sector of activity. With a view to revitalising its action, the CUT has also turned to service unionism: its structure now includes specific committees (for the Amazon rainforest, the environment, fighting racial discrimination) and collective committees (for health, the disabled, and young people). The CUT has also set up agencies that implement specific policies for providing technical support (solidarity and development agency, social observatory institute, national institute for occupational health, as well as seven union schools, one for tourism, and a hospital school).

- ▶ The *União Geral dos Trabalhadores* (UGT) is the second largest union in Brazil. Founded on 19 July 2007, it incorporates three unions: the *Central Autônoma de Trabalhadores* (Autonomous Workers' Union), the *Confederação Geral dos Trabalhadores* (General Workers' Confederation, which was already the second largest union in the country), and the *Social Democracia Sindical* (Union for Social Democracy), as well as other independent unions. This organisation is affiliated to the Trade Union Confederation for the Americas (TUCA-CSA) and to the International Trade Union Confederation (ITUC). Close to the centre-right *Partido do Movimento Democrático Brasileiro* (Brazilian Democratic Movement Party or PMDB), the UGT estimates that it has 1,517 associate regional sector unions and 4.5 million members.
- ▶ There are also smaller unions, including *Força Sindical* (Union Force, or FS), founded in 1991, which boasts some two million members. No fewer than 22,000 "single" unions make up the remainder of Brazil's trade union scene. This is because there can be only one union per sector of activity, per region.

In spite of this diversity, the rule allowing only one union per professional category in companies, which dates back to the Vargas era, still lives on in Brazil's corporate union system. These organisations are not represented all over the country and have very few legal means of action within companies. An attempt to set up a new union further to the left was made in June 2010, due to growing mistrust for the Lula Government's policy among some people who found it too close to free-market thinking⁽²⁷⁾. Composed mostly of blue- and white-collar workers, but few students and farm workers, this multi-union movement led to the creation of the *Central Sindical e Popular – Coordenação Nacional de Lutas* (People's Union – National Coordination of Struggles, or CSP-Contulas). Its goal is to "unify people's movements" and act as an



[26] Union founded on 28 August 1983, in Sao Paulo at the "First Working Class Congress".

[27] On this issue and the impact of the Lula Governments' policy, see in particular Galvão A. (2007), "Syndicalisme et politique: la reconfiguration du mouvement syndical brésilien sous le gouvernement Lula", [Trade Unionism and Politics: the Reconfiguration of the Brazilian Union Movement under the Lula Government], Conference Marx international V, Nanterre, October.

“instrument to support the struggles of workers and the poor”⁽²⁸⁾ in an effort to revitalise union action by fighting government policy and those of unions close to the Government.

The fact that some sectors of activity are not included in this revitalisation effort shows how hard it is for traditional unions to represent workers in the informal sector, or those in sectors that are particularly impacted by labour market segmentation, such as rural and domestic workers. One particular example of this since the mid-1980s has been the *Movimento dos Trabalhadores Rurais Sem Terra*, or MST, the leading landless movement which campaigns in favour of small farmers⁽²⁹⁾ and agrarian reform.

Strong corporatism and a funding system that favours the traditional unions remain an obstacle to change in trade unionism. Funding is based on mandatory dues equal to one day's pay per year, which workers pay to their sector union⁽³⁰⁾. Thus employees and employers belonging to a professional organisation cannot choose to be represented by another organisation outside their sector of activity. Although union membership is not compulsory, all employees within a given sector of activity must pay union dues, as the agreements signed by the sector union apply to the entire sector workforce, members and non-members alike. Neither is there any way of determining how representative a union is. Collective bargaining is mostly carried out at company - or at best sector - level, but there are no inter-professional negotiations at the national level. Workers in companies with more than 200 employees have the right to elect a representative solely to “promote understanding” between management and workers. This is the only constitutional guarantee regarding their representation and the defence of their interests. This right is rarely exercised now. Employers have no obligation to consult staff representatives even in the case of collective redundancies, although they must inform the relevant authorities. Despite these problems, pay issues (pay rises, paid leave, and insurance) are at the centre of the few negotiations currently conducted by the unions.

On his first election, President Lula undertook to reform the law to give greater substance to the freedom of association guaranteed by the Constitution. Although talks have begun on this topic, the reform has so far met with very stiff resistance, not only from employers, but also from workers' unions, for which the current system has some advantages regarding dues collection. The Government has adopted a rather moderate position on industrial relations, preferring to focus on reducing poverty rather than pressing any further in the above direction. Recent months have also seen many strikes. In February 2012, the Bahia State police went on strike for higher pay. Then nearly 350,000 civil servants went on strike in August 2012. The strikers demanded higher pay and measures to fight the growing lack of job security that now affects the public sector too, a reflection of Brazil's continuing problems with pay claims – and not only for the poorest workers.

➤ GUARANTEEING A MINIMUM INCOME FOR THE MOST DEPRIVED

Like many emerging countries, current Brazilian policies may range from universal to targeted measures. The late 1990s and the early 2000s were a good period for targeted policies. Efforts are now underway to extend support measures to those above the poverty line, although progress is slow. Various support programmes exist.

■ Work-related income

If dismissed without fair cause⁽³¹⁾, employees are entitled to a percentage of their total wages since they have been in their job. They are entitled to aid even if the dismissal is justified, for example, on grounds of misconduct.

[28] Excerpts from the resolution of the 1st National Congress of the People's Union (CSP – Conlutas) meeting on 27, 28, 29, and 30 April 2012.

[29] On the landless movement, see in particular Woford W. [2010], *This Land Is Ours Now: Social Mobilization and the Meanings of Land in Brazil*, Duke University Press, p 38.

[30] Dues provided for in Articles 578 and 591 of the CLT, “*Contribuição Sindical*”. The sector union may also collect voluntary dues from employees.

[31] Cf. above, “improvement in worker conditions and protection, but social dialogue remains difficult”.

Unemployment insurance, or *Seguro Desemprego*, introduced in 1986 as part of the Cruzado Plan for Economic Stabilisation covers the unemployed in the formal and private sector. It is funded by employers' and employees' social contributions. Employees may also benefit from the scheme provided they have worked (and thus contributed to the scheme) for at least six months over the previous three years, through the *Fundo de Amparo ao Trabalhador* (FAT)⁽³²⁾. Unemployed people with no resources for themselves and their families may also benefit if they have no other insurance coverage. The amount paid is between 1 and 1.87 times the legal minimum wage, depending on the job seeker's last salary. The period of payment depends on how long the employee worked in the formal private sector. Managed by central and local government, the fund may also supplement pay for company employees involved in various training and economic development programmes. The fund was introduced by a law that also introduced a national re-employment service (*Sistema Nacional de Emprego*, SINE).

Another programme is the *Fundo de Garantia do Tempo de Serviço*, a mandatory severance compensation fund set up in 1967. This provides for an account to be opened in the employee's name, into which the employer transfers a monthly sum equal to 8% of the salary. The employee can draw on the fund under certain conditions (unfair dismissal, end of a fixed-term contract, retirement, medical assistance for HIV-positive or cancer patients, house purchase or to pay off a debt in connection with a house purchase).

■ Programmes for combating poverty

During President Lula's second term, social policy focused on reducing poverty, a theme central to his *Forme Zero* project. The *Bolsa Família*⁽³³⁾ programme, divided into various sub-programmes set up under President Cardoso (Lula's predecessor), was at the heart of the project. It aims to provide the poorest families with a fixed minimum income allowance to cover their food expenses. The amount paid out varies with the number of children. In return, the beneficiaries undertake to send their children to school as well as to health centres for regular check-ups. Beneficiaries may also be eligible for other programmes to help them achieve greater economic security. *Bolsa Família* management is decentralised and shared among the Union, Federated States, and municipalities. One drawback of the programme is that it only covers some of the population, although its outreach has grown since it was set up. In 2010, it concerned 12.5 million Brazilian families, i.e. a quarter of the population⁽³⁴⁾. From 2004 to 2009, extreme poverty (affecting people with a maximum monthly income of R\$70) fell from 8% to 5% of the population. It is estimated that 21% of the reduction in income inequalities can be attributed to the programme, at a cost of 0.4% of GDP in 2012. It also seems to have had a positive impact on growth, since for every R\$1 paid out by the *Bolsa Família*, an additional R\$1.44 would be backed to GDP⁽³⁵⁾. However, these results are still open to debate as the cause and effect relationship between *Bolsa Família* and declining poverty cannot always be identified. According to some authors, this fall in poverty is explained more by economic growth. Furthermore, the poverty reduction policy does not always achieve equal results throughout the country⁽³⁶⁾.

In 1988, during José Sarney's Presidency, a minimum wage, called the *Benefício de Prestação Continuada* (BPC), was introduced for the disabled or elderly with no means of support, and whose families lacked the financial resources to care for them. The beneficiaries' families must earn less than the minimum wage. The BPC may be paid to several members of the same family if they meet the requirements, but not in addition to another type of benefit. The programme concerned 3.6 million Brazilians in March 2012⁽³⁷⁾.

[32] In 2012, 1.2% of GDP was devoted to funding the FAT [source: Brazilian Labour Ministry].

[33] Laws of 20 October, 2003 and of 9 January 2004.

[34] See in particular: Mourão L. and Macedo de Jesus A. [2012], "The *Bolsa Família* (Family Grant) Programme: Analysis of the Brazilian Conditional Income Transfer Programme", *Field Actions Science Reports*, special issue No. 4, June.

[35] The French Embassy in Brazil [2012], *op. cit.*

[36] Cf. in particular on this subject Higgins S. [2012], "The Impact of *Bolsa Família* on Poverty: Does Brazil's Conditional Cash Transfer Program Have a Rural Bias?", *Journal of Politics and Society*, Spring, p. 88-125.

[37] Source: Brazilian Ministry for Social Development and for Combating Hunger, 2012.

➤ CONCLUSION

The poverty reduction policy, with its mechanisms targeting the family unit and its employment support component, has enabled the country to rapidly tackle the recession (1.5 million new jobs and 5% growth as of 2010). It has also brought about a lasting reduction in poverty and informal employment (10 million new jobs between 2003 and 2008, 19.4 million people taken out of poverty⁽³⁸⁾, and 20 million people joining the middle classes). Economic results for 2012 were not very encouraging, with the estimated growth rate falling from 4.5% to 2%. Yet although Brazil has not enjoyed a continuous period of prosperity since the beginning of the millennium, it has never suffered for long. On the contrary, it has always sought to innovate and improve the performance of its social protection system in hard times and has become a leader in the field of social rights. In spite of the mixed growth figures, the unemployment rate stood at only 6% in 2011 and should continue to drop in 2012.

APPENDIX 1 - BRAZIL

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[38] Data from the Vargas Foundation, 2008.