7. Illustrating the gap: collective bargaining and income distribution in Chile

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7.1 INTRODUCTION

Distributional topics have an important place in public policy debates and are of special relevance in countries with a particularly skewed income distribution such as Chile. Following the global overview on the evidence of worsening wage distribution in a number of countries and the link with weak collective bargaining institutions (Hayter and Weinberg, in this volume), the present chapter will illustrate the same problem through a country case study on Chile. Within the international statistical evidence, Chile is one of the countries with available data with the largest increases in wage inequality between 1995/97 and 2004/05, although the level of wage inequality is in line with several other Latin American countries (ILO 2008b).

Whereas in some other countries with particularly important increases in wage inequality, these can be explained by severe economic crises (such as the cases of Argentina, the Republic of Korea and Thailand) or by on-going restructuring in former transition countries (such as Bulgaria, Hungary and Poland), the case of Chile deserves particular attention as these changes have taken place in a comparably favourable economic context.

In the case of Chile, the deterioration of the wage distribution is due to a rise in the inequality between median earners and low earners (the fifth decile of wage distribution compared to the first decile), whereas the relation between high earners and medium earners (the 9th decile compared to the 5th decile) has experienced little change (ILO 2008b). The weak performance of the labour market has had the result that despite increasing social budgets, progress in improving income distribution since the return to democracy has been extremely slow. Moreover, despite rising average incomes, an important segment of low-wage workers, especially among women, persists (see Valenzuela and Reinecke, forthcoming).
These labour market outcomes can be related to the system of labour relations in Chile, governed by a labour code that has been inherited (albeit with some reforms in the 1990s and in 2001) from military government and which imposes several restrictions on collective bargaining. By international comparison, Chile is among the Latin American countries with a low coverage of collective bargaining, and trade unions are comparatively weak. Moreover, the system has not been able to adapt to the spread of subcontracting which characterizes the organization of work and production in Chile.

Following the argument developed in the previous chapter, the weakness of unions and collective bargaining in Chile is likely a key cause for the absence of progress in the distribution of income from work. The present article explores the relationship between wage and income distribution on the one hand, and the weakness of trade unions and collective bargaining on the other. The following section (7.2) analyses to what extent recent changes in income distribution in Chile are due to changes in the labour market and social policies, respectively. We will then briefly describe the system of unionization and collective bargaining in Chile and analyse available data to characterize the profile of the workers covered as opposed to those who remain outside the reach of collective bargaining (7.3). Section 7.4 identifies some weaknesses in the institutions that regulate unionization and collective bargaining which contribute to the findings presented previously. Finally, section 7.5 concludes and presents some elements of a possible reform agenda.

7.2 LABOUR MARKET VERSUS SOCIAL POLICIES: THE FACTORS BEHIND CHANGES IN INCOME DISTRIBUTION IN CHILE

Between the return to democracy in 1990 and 2006, the Chilean economy averaged 5.5% annual growth. During the same period, poverty fell from 38.6% to 13.7% and indigence (extreme poverty) from 13.0% to 3.2%. At the same time, average real household income rose significantly, reflecting economic growth, more years of schooling (up from an average of 9.7 years in 1990 to 11 years in 2006), and policies that boosted minimum wages for those employed by a real 94.2% between 1990 and 2006, among other factors. Despite these undeniable achievements, which set Chile apart from other countries in Latin America, distribution of the fruits of growth remains an issue for Chilean society.

Chile is a country that suffers from a particularly skewed income distribution. While the indicators presented in Table 7.1 indicate that
the distribution of monetary income improved between 1990 and 2006, progress in this regard has been modest.

Monetary income, however, does not distinguish between changes reflecting better income distribution on the labour market and income from other sources, including transfers due to social policies. If we look only at income from work, we can see that progress in the labour market is non-existent. From 1990 to 2006, the four poorest deciles’ share of income from work actually fell from 12.9% to 12.6%, and the other indicators in the right-hand columns of Table 7.1, except the 10/40 ratio, also point to deterioration in work-related income distribution.

In other words, although the monetary income of the poorest deciles rose from 1990 to 2006 apace with average income, work-related income performed in a clearly regressive manner, posting significantly below average increases. Thus, the average monetary incomes of households in the poorest decile rose 58.0% from 1990 to 2006 (in real terms), while income from work rose just 29.0%.

In sum, existing improvements in income distribution have been exclusively due to an increase in monetary subsidies to the lowest income deciles, rather than an improved distribution of income from work (for more detail, see Reinecke and Valenzuela 2008). This data points to the limits inherent in a scenario in which distribution improves through transfers, while the distribution of labour market income, where most household income is generated, does not improve.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Monetary income</th>
<th>Income from work</th>
</tr>
</thead>
<tbody>
<tr>
<td>20/20 ratio</td>
<td>12.9</td>
<td>12.7</td>
</tr>
<tr>
<td>10/40 ratio</td>
<td>3.3</td>
<td>3.1</td>
</tr>
<tr>
<td>10/10 ratio</td>
<td>26.6</td>
<td>26.9</td>
</tr>
<tr>
<td>Sum of Decile I to II (% of total)</td>
<td>4.4</td>
<td>4.4</td>
</tr>
<tr>
<td>Sum of Decile I to IV (% of total)</td>
<td>12.6</td>
<td>13.0</td>
</tr>
</tbody>
</table>

*Note:* The 20/20 ratio is an inequality index that calculates the ratio of the 20% highest-over the 20% lowest-income households. The 10/40 and 10/10 ratios are similarly calculated.

Moreover, a medium-term analysis indicates that, on average, labour productivity has risen faster than wages since 1990 (Figure 7.1). In terms of the functional distribution of income, this means that redistribution has actually hurt salaried wage-earners. Interestingly, the deterioration of the distribution of income from work and of functional income distribution occurred despite a sustained increase of the real minimum wage.

Behind the modest improvement in distribution, then, are social policies. In fact, the poorest households’ share, including direct transfers, subsidies and public service delivery, has risen since the return of democracy. From 1990 to 2006, per capita social spending almost doubled (from US$365 to US$709, in 2000 US$ dollars). In 2006, monetary subsidies accounted for almost one quarter (23.4%) of households’ total monetary income, in the lowest decile, while in 1990, subsidies accounted for less than half of this percentage (11.1%). In the second (6.6%) and third (4.1%) deciles, this share is also significant and has risen compared to 1990 (Reinecke and Valenzuela 2008). If, aside from direct subsidies, we also look at subsidies through public education and health care, more than 60% of the total income of the poorest decile comes from social policies (Mideplan 2007).

While the gap between male and female wages has narrowed during the same period, the gender gap remains substantial. While in 1990, the average monthly income of women was 65.5% of the income of their male counterparts, this percentage increased to 71.6% in 2006. Considering hourly incomes, female incomes increased from 71.6% to 87% of male incomes over the same period (Table 7.2, above).

### Table 7.2 Average female incomes as share of male incomes, various years (in %)

<table>
<thead>
<tr>
<th></th>
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<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Hourly income</td>
<td>73.6</td>
<td>75.6</td>
<td>80.5</td>
<td>87</td>
</tr>
<tr>
<td>Monthly income</td>
<td>64.5</td>
<td>64.3</td>
<td>67.4</td>
<td>71.6</td>
</tr>
</tbody>
</table>

*Source:* ILO based on data from Mideplan (CASEN survey, various years).

#### 7.3 THE SITUATION OF UNIONIZATION AND COLLECTIVE BARGAINING IN CHILE

The system of labour relations in Chile is governed by the Labour Code which had its origin in a 1979 reform under military government. While
Note: Due to a change in the methodology of the INE’s wage survey, data from 2008 onwards are not comparable to the previous data.

Source: ILO based on INE and Central Bank data.

Figure 7.1  Real average salary and productivity, 1990–2007 (Index 1990 = 100)
recognizing the rights of workers to organize, this Labour Code at the same time curtailed this right by introducing a number of restrictions. The right to strike was severely limited by a number of procedural rules, and a right to lock-out was granted to employers. It also centred collective bargaining exclusively at enterprise level. At the same time, unions were weakened through political persecution during this period.

After the return to democracy, during the 1990s and in 2001 several modifications were introduced to the 1979 Labour Code with the objective to redress the balance between workers and employers. For example, supra-enterprise bargaining was re-introduced as a possibility although in practice the scope is extremely limited because it is subject to the employers’ agreement. Anti-union practices were defined more clearly and a list of enterprises found guilty of these unfair practices is published twice a year by the labour administration. On the whole, however, the basic architecture of the 1979 Labour Code remained in place.

In summary, the Chilean system is characterized by the following key elements:

- Collective bargaining takes place at enterprise level.
- The role for inter-enterprise unions, federations and confederations is very limited.
- Employers have the right to replace workers on strike if some legal conditions are met.
- Collective bargaining must follow a complex sequence and procedures set by the law. Some subject matters are explicitly forbidden to be dealt with in collective bargaining processes as they are conceived of as part of the entrepreneur’s exclusive right to run the enterprise.
- Employers have few obligations to systematically share information with their unions.
- As a result, labour relations tend to be characterized by a lack of trust between employers and workers.

A Statistical Overview

During the first few years after the return to democracy, the unionization rate and the coverage of collective bargaining increased. However, these increases came to a standstill; the unionization rate started to fall again after 1992 and the coverage of collective bargaining followed the same tendency after 1993. During the last years, official figures indicate some recovery, without however approaching the levels of the early 1990s. As can be seen in Figure 7.2, unionization reached its lowest point in 1999 and has been fluctuating around 13% of salaried workers since then.
Note: The unionization rate is calculated as the number of union members as a share of salaried employment. The coverage of collective bargaining is calculated as the number of workers participating in collective agreements – assuming an average duration of these instruments of two years – as a share of salaried employment.

Source: ILO based on data from the Dirección del Trabajo and the INE.

Figure 7.2 Unionization rate and coverage of collective bargaining as %, 1990–2009
2007 and 2009, a significant increase of more than two percentage points can be observed; however, it remains to be seen whether this is part of a sustained increase of unionization rates in Chile.

There is a significant gender gap. Measured as a share of total employment, the unionization rate in 2009 was 13.9% among men but only 10.1% among women. When including public sector associations in addition to unions as such, the total coverage in 2008 was 14.5% (15.1% for men, 13.5% for women). Moreover, women are underrepresented at higher levels of Union Confederations and just a few gender clauses are included in collective bargaining agreements.

The coverage of collective bargaining measured as a share of salaried employment has also decreased after the return of democracy, reaching its lowest point in 2004 with only 7.8%. After some years of increases, data for 2009 indicate a coverage of 10.6%, still significantly lower than in the early 1990s when coverage was around 15%.4

As Table 7.3 shows, several other Latin American countries have experienced a decline in collective bargaining and unionization rates. However, even considering this regional tendency, both the unionization rate and the coverage of collective bargaining in Chile are low compared to other Latin American countries.

The recent Chilean figures are not only low in international comparison, they also contrast with historical data for Chile. Although collective bargaining at enterprise level has always been dominant in Chile (unlike the situation in many other Latin American countries, where sectoral bargaining was more common), sectoral collective bargaining had progressively widened its coverage during the 1960s and early 1970s. In 1971, more than half of all salaried workers were unionized, and more than one quarter were covered by collective bargaining, much higher shares than during the 1990s and 2000s (Cortázar 1997; Reinecke 2000).

Characterizing Covered Workers

Theoretically, the link between collective bargaining and income distribution is ambiguous (ILO 2008a). Collective bargaining could deteriorate income distribution to the extent that more skilled workers and those with more solid labour market integration might be more likely to be covered by collective bargaining, thus increasing the gap between themselves and the less skilled or more precarious workers.

In practice, experiences worldwide with economic and social results from collective bargaining are almost as far-ranging as their rules and institutions. One constant finding of international studies, however, is the correlation between collective bargaining and income distribution.
The greater the coordination and coverage of bargaining, the smaller the income inequality within a society (see Hayter and Weinberg in this volume). Likewise, studies by the World Bank and the OECD have concluded that more extensive collective bargaining is associated with less wage disparity, a lower gap between the wages of skilled and unskilled workers, and a lower gap between men and women (Aidt and Tzannatos 2002; OECD 2004).

Unfortunately, statistical data to characterize trade union members and workers covered by collective bargaining as compared to those who remain outside are relatively scarce. The Socio-Economic Survey CASEN included the question on whether the surveyed person was a trade union member only once, in 1994.

According to these (rather old) data, the unionization rate increases with education (years of formal schooling), levelling off for those who have

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Table 7.3 Unionization rates and coverage of collective bargaining as a share of salaried employment, early 1990s and most recent

<table>
<thead>
<tr>
<th>Country</th>
<th>Early 1990s</th>
<th>Year</th>
<th>Rate</th>
<th>Most recent</th>
<th>Year</th>
<th>Rate</th>
<th>Variation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Argentina</td>
<td>1990</td>
<td>49</td>
<td>2001</td>
<td>42</td>
<td>-</td>
<td>1995</td>
<td>73</td>
</tr>
<tr>
<td>Brazil</td>
<td>1992</td>
<td>42</td>
<td>2001</td>
<td>42</td>
<td>=</td>
<td>2006</td>
<td>60</td>
</tr>
<tr>
<td>Chile</td>
<td>1990</td>
<td>18</td>
<td>2009</td>
<td>16</td>
<td>-</td>
<td>1991</td>
<td>15</td>
</tr>
<tr>
<td>Colombia</td>
<td>1990</td>
<td>26</td>
<td>1997</td>
<td>29</td>
<td>+</td>
<td>2008</td>
<td>81</td>
</tr>
<tr>
<td>Cuba</td>
<td>2008</td>
<td>81</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>El Salvador</td>
<td>1990</td>
<td>29</td>
<td>2002</td>
<td>30</td>
<td>+</td>
<td>2008</td>
<td>11</td>
</tr>
<tr>
<td>Guatemala</td>
<td>1990</td>
<td>10</td>
<td>1997</td>
<td>12</td>
<td>+</td>
<td>2006</td>
<td>4</td>
</tr>
<tr>
<td>Mexico</td>
<td>1992</td>
<td>14</td>
<td>2008</td>
<td>17</td>
<td>+</td>
<td>2007</td>
<td>4</td>
</tr>
<tr>
<td>Nicaragua</td>
<td>1993</td>
<td>15</td>
<td>2006</td>
<td>4</td>
<td>-</td>
<td>2007</td>
<td>4</td>
</tr>
<tr>
<td>Paraguay</td>
<td>1990</td>
<td>15</td>
<td>2004</td>
<td>8</td>
<td>-</td>
<td>2008</td>
<td>89</td>
</tr>
<tr>
<td>Uruguay</td>
<td>1990</td>
<td>30</td>
<td>2008</td>
<td>22</td>
<td>-</td>
<td>1990</td>
<td>89</td>
</tr>
</tbody>
</table>

Note: Data for unionization in Guatemala and El Salvador as share of registered employment. Data for unionization in Argentina refer to salaried workers in urban areas only. Due to differences in methodology, data are not fully comparable across countries, but differences over time in any one country should be consistent.

Source: Estimates based on ILO (1998), ILO (2009), Gaspardini (2003), Mazzuchi (2009), Vega-Ruiz (2004), data from ILO database on trade union membership, websites of relevant authorities, Ministerio de Justicia y Trabajo (Paraguay) and Dirección del Trabajo (Chile).
more than 16 years of schooling. The link between education and unionization exists for both men and women. This, according to the theoretical considerations in ILO (2008a), might cause unionization and collective bargaining to influence income distribution “in the wrong way”, that is, increasing skilled workers’ wages more than unskilled workers’ wages.

However, another finding from the analysis of the 1994 CASEN data is that average wages are higher for unionized than for non-unionized workers only up to the group with 13 to 15 years of education, while for the most educated workers wages are higher among the non-unionized workers. Unions thus succeed in compressing the wage structure: unionized workers with low levels of formal education earn more than their un-unionized counterparts, while those with high levels of education earn less.

Another interesting fact is that for the least educated workers with up to five years of schooling, only men receive significantly higher average wages depending on unionization whereas women’s wages hardly depend on unionization in this group.5

Although it is common that workers in smaller enterprises have more difficulties in setting up or joining unions than in larger ones, this gap is particularly pronounced in Chile. While according to a 2008 survey only 0.7% of micro enterprises and 2.9% of small enterprises had an active trade union, this share rose to 22.8% in medium-sized enterprises and 54.1% in large enterprises (Dirección del Trabajo 2009). Again, this means that coverage is biased toward workers who would be among the better-earning even in the absence of trade unions.

7.4 WEAKNESSES IN COLLECTIVE BARGAINING INSTITUTIONS AND THEIR CONSEQUENCES

The limited development of unionism and collective bargaining in Chile is, to a large extent, due to an unfavourable legal environment. In the words of one Chilean labour lawyer, “the law shows an accentuated antagonism to the collective rights at work, imposing prohibitions, restrictions and severe limitations to the rights of collective bargaining and strike” (López 2009, pp. 45–46, our translation). Real wage increases through collective bargaining appear to be very modest and rather lag behind productivity increases. The relative weakness of unions and collective bargaining in Chile has been correctly described as an outcome of the period of military government during which a series of reforms centred the system of labour relations at the level of the individual enterprise rather than at sectoral or national level.
Three Institutional Shortcomings: Legal Exclusions, Fragmented Bargaining, Unregulated Conflicts

However, even within the scope of a system in which individual enterprises are the main level of bargaining, the Chilean system has some specific shortcomings which weaken collective bargaining. Moreover, these shortcomings have a particularly negative impact on workers who tend to have low earnings, therefore limiting the potential positive impact of collective bargaining on income distribution.

The first shortcoming in our view consists in unnecessary legal exclusions that keep workers from negotiating collectively (see Ministerio de Trabajo y Previsión Social 2008):

- The minimum size for the creation of a trade union is eight workers, which in practice excludes most workers in micro enterprises from the possibility of joining a union, even though in theory the possibility of joining a supra-enterprise union exists.
- Workers with apprenticeship contracts and with fixed-term contracts are also excluded from collective bargaining. While this kind of exclusion operates in other countries as well, it is especially relevant in a context where these types of contracts account for more than one fifth of all salaried workers with written work contracts.
- Finally, public sector workers remain outside of the scope of the labour code and do not have the right to join unions, although they may join associations instead, and, in practice, do participate in work stoppages.

The second shortcoming relates to the legal entity of employers when it comes to bargaining with their workers. Many enterprises negotiate as one single enterprise with their providers and clients, but are fragmented into a multitude of different legal entities when dealing with their workers. This allows them to avoid bargaining at the level of the enterprise. Very often, legal entities which concentrate wage payments are different from those which concentrate profits, placing workers into a weak bargaining position. For example, in retail, workers will have to bargain with the employer of one single shop instead of bargaining with the supermarket or department store chain as a whole. Efforts of union coordination have had some success during recent years and union leaders in the retail sector continue to work for negotiations beyond the level of the individual shop. In one major retail enterprise, headquarters negotiate a framework agreement with the union, and while the other bargaining processes for individual shops remain formally independent, the level of benefits is based on this framework.
agreement. However, unions have as yet failed to obtain negotiations at the level of holdings or sectors in a systematic manner, an objective that is difficult to attain given the legal framework for collective bargaining.

While the use and misuse of different legal entities within one entrepreneurial group was the subject of discussion in the *Consejo Asesor Presidencial de Trabajo y Equidad* (Espinosa 2007) and was included by the Chilean President in his programmatic speech in May 2010, no major changes have taken place so far nor has a specific project been presented by the Government. The only limit to enterprise fragmentation is given by the Law on Subcontracting which seeks to harmonize the formal employment relationship with the effective supervision of workers. The effect of increasing fragmentation is also reflected in small average size of trade unions in Chile (86 workers per union in 2009), even though this indicator has risen somewhat since 2004 when the average union size was only 72 workers. In 1991, average union size was 91 workers per union.

Thirdly, the framework of the labour code does not seem to cope with all bargaining processes and a huge number of work conflicts in fact take place outside the scope of the law. Between 2007 and 2009, 56,971 workers participated in legal strikes. During the same period, six times as many workers (350,584) participated in work stoppages that fell outside of the scope of the labour code in the private sector (Table 7.4). The work stoppages by workers of subcontractors in the mining industry can be mentioned as an example. These workers felt that they have not participated sufficiently from the recent boom of the sector due to high copper prices. Given that the system of labour law does not allow them to engage in collective bargaining, forging alliances across several subcontractors in order to organize work stoppages has been a response outside the scope of the law. The fact that these conflicts take place in a context where large mining enterprises refuse bargaining when there is no pressure from the affected workers led to situations that are more prone to physical violence than legal strikes (see López 2008).

The predominance of unregulated work stoppages outside of the scope of the labour code is partly due to the current restrictions in the definition of who may participate in collective bargaining. Some other factors can be identified (Ministerio de Trabajo y Previsión Social 2008, p. 26), such as limitations of the permitted subject matters in negotiation – the labour code explicitly excludes all subjects that are deemed to be part of the faculty of the employer to manage and organize the enterprises – and the rigidities in the actual sequence of bargaining as regulated by law. The different procedural steps of collective bargaining are regulated in an extremely detailed manner as to their exact timing and order. The high number of conflicts outside the legal framework is a threat not only from the point of view of equity, it also threatens to undermine economic
efficiency given that unregulated conflicts tend to disrupt economic activity in a stronger and less predictable way than legal strikes.

Labour Relations and Institutions During the Crisis: Some Preliminary Considerations

While distributional issues often tend to be looked at only during times of economic growth, there is no doubt that cycles of economic crisis and recovery can have a crucial impact on distribution. In Latin America, workers in many countries have suffered a decline in real wages during recent crises, in particular the financial crisis of 2002, and even after several years of economic recovery had not reached the pre-crisis level, implying a functional redistribution from labour to capital. While it is much too early to draw definitive conclusions on the distributional impact of the international financial crisis that started in 2008, some preliminary considerations for Chile can be made.

Much as in other Latin American countries (ILO 2010), Chilean policies in response to the international financial crisis that started in 2008 had the objective of avoiding dismissals as far as possible. The package of presidential measures, backed by an unusual consensus between Government, workers (represented by the largest national organization Central Única de Trabajadores) and employers (Confederación de la Producción y del Comercio) includes the use of public training funds and savings in the unemployment insurance accounts to finance “leave for training” in crisis-affected enterprises in order to avoid dismissals.

Table 7.4   Number of workers participating in legal strikes and work stoppages outside the scope of the labour code, 2007–09

<table>
<thead>
<tr>
<th>Year</th>
<th>Legal strikes</th>
<th>Work stoppages outside the scope of the labour code</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Private sector</td>
<td>Public sector</td>
</tr>
<tr>
<td>2007</td>
<td>17583</td>
<td>71224</td>
</tr>
<tr>
<td>2008</td>
<td>17473</td>
<td>113388</td>
</tr>
<tr>
<td>2009</td>
<td>21915</td>
<td>165972</td>
</tr>
<tr>
<td>2007–09</td>
<td>56971</td>
<td>350584</td>
</tr>
</tbody>
</table>

Note: Data for the private sector include enterprises under joint public-private ownership, which operate under the labour code.

Source: Authors’ calculations based on Dirección del Trabajo, Informe de conflictividad, various years.
While the design of these measures is innovative in the Chilean context, the scale of application has been limited. By mid-November 2009, only 33 enterprises had made use of the “leave for training” scheme, covering 984 workers. The use of other measures also remained below the expectations. Some administrative difficulties have been identified as possible reasons for this, but another key factor has been the difficulty for employers and workers in Chile to interact on a basis of mutual trust (Hernández-Agramonte 2009).

More generally, the strategies of Chilean enterprises to face the crisis reflect some of the shortcomings analysed above. For example, in several enterprise holdings, employers reached mutually satisfactory agreements with the union in the core enterprise, while labour relations with the workers in other enterprises of the same holding are characterized by distrust and alleged anti-union practices (Hernández-Agramonte 2009).

7.5 CONCLUSIONS AND POSSIBLE STEPS FOR REFORM

Since the return to democracy in 1990, Chile has been very successful in reducing poverty, but progress in improving income distribution has been extremely slow. Wage distribution has even deteriorated over the last decade, due to a widening gap between the first and the fifth decile of wage distribution (“collapsing bottom”). Situating this finding within its broader context, the slight improvements in income distribution are attributable to social transfers, whereas the distribution of incomes from the labour market has actually deteriorated.

It has been argued that the potential role of unions and collective bargaining in improving the distribution of income from work in Chile has been used in a very limited manner. The institutional shortcomings analysed in this chapter contribute to the weakness and low coverage of collective bargaining in Chile. They also contribute to the limited distributional impact of bargaining, both by reducing coverage and by biasing coverage in favour of workers who tend to have higher incomes even in the absence of collective bargaining.

Among the causes for the weak performance of the Chilean labour market in terms of equity, the weakness of unionization and collective bargaining play a key role. Both the rate of unionization as a share of total employment and the rate of coverage of collective bargaining as a share of salaried employment have decreased rather than increased since the return to democracy. Moreover, the pattern of unionization accentuates even further the weak role of labour market institutions in Chile in attaining the
goals of equity and improved income distribution. While unions succeed in compressing the wage structure among affiliated workers, the unionization rate falls with decreasing years of formal education. Moreover, the unionization rate for female workers is more than five percentage points below the rate for their male counterparts, which contributes to the persistent gender gap in Chilean wages.

The weakness of collective bargaining and distrust in labour relations has also limited virtuous responses to the recent international financial crisis. Despite innovative policy designs, the scope and scale of application of measures that seek to share the burden of the crisis in the broadest possible way (both between enterprises and workers and across workers) remain limited.

In order to improve distribution, reforms in several policy fields appear important, including social policies, educational policies and labour market regulation. It has to be recognized, however, that public spending has already made an important contribution toward the lowest deciles of income distribution. Although further progress in this area is possible, it would clearly need to go hand in hand with a societal agreement regarding the funding of strengthened public policies through higher tax revenues.

In the area of labour market regulation, the task is for labour institutions to facilitate results that are in line with socially constructed notions about what is fair and companies’ ability to pay. Often, individual bargaining between worker and employer will not meet this goal. In fact, collective bargaining is meant to address this situation and many labour regulations reflect the view that employers and workers possess unequal bargaining powers. In the absence of specific public policies, this can lead to the employer’s monopsonic power, with the corresponding damage to workers.

It is, therefore, the task of the State to equalize bargaining capacity between the parties and thereby foster a better distribution of the fruits of work. Collective bargaining is a key instrument that influences how the labour market works and it would be wise to think of reinforcing both the coverage and the contents of collective bargaining.

In this context, even maintaining the current system of decentralized (enterprise-based) bargaining, the positive impact of collective bargaining could be enhanced through reforms in the areas of shortcomings described in the previous section:

- Regarding legal exclusions, the minimum size of eight workers could be diminished in order to facilitate the establishment of unions in micro and small enterprises. Moreover, the participation of fixed-term workers in unionization and collective bargaining processes could be revised.
The role of collective bargaining in the global economy

- The excessive fragmentation of bargaining processes with different legal entrepreneurial entities under the same ownership and carrying out the same type of economic activity could be addressed through limitations to this kind of fragmentation or the definition of criteria to assign a single identity for labour purposes to several enterprises of the same holding.

- The rigidities in the procedural requirements for collective bargaining in the labour code could be revised, giving more freedom to the social actors to adapt bargaining procedures to enterprise needs. Moreover, unnecessary legal limitations to the scope and topics to be dealt with in collective bargaining processes could be removed. On the other hand, the quality of collective bargaining could be enriched by establishing more detailed requirements for information sharing between management and union.

Finally, another issue that merits a review is benefits, and particularly profit-sharing arrangements, which can contribute to a fairer distribution of the fruits of work between employer and workers. Currently, the law allows employers to replace the variable element with a fixed bonus calculated as a multiple of the minimum wage. This turns bonuses into one more element within the fixed wage, which therefore does not meet its original purpose of ensuring workers receive their share of the company’s economic success.

NOTES

1. The authors wish to express their gratitude to their colleagues from the Dirección del Trabajo who readily shared their experience and data.

2. According to some studies (Libertad y Desarrollo 2007), the evolution of wages has been in line with or even slightly superior to the evolution of labour productivity. However, these publications wrongly base their calculation on hourly instead of monthly wages. Given the decrease of average weekly working hours following a legal change in 2005 (45 hours instead of 48 for normal full-time work), this is an important detail to consider.

3. The Code also altered individual rights, for example making hiring and firing much easier and cheaper.

4. These estimates, based on official figures, underestimate the coverage of collective bargaining given that many collective agreements, especially in recent years, have a duration of more than two years. Data on the collective agreements currently in force will be published shortly by the Dirección del Trabajo.

5. More sophisticated analysis, using econometric methods, would be needed to disentangle the relationship between unionization, wages and other characteristics of the workers and their work places. However, given that more recent data in the same format are not available, such analysis has not been carried out in the context of the present research.

8. Based on data from the Dirección del Trabajo. There are other factors that may contribute to the small average size of trade unions in Chile, such as weaknesses in the leadership and management skills of trade union leaders.
9. Source: SENCE.

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