

Chile's Labor Reform of 1979: Ten key changes

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On June 29, 1979, we radically transformed Chile's trade union legislation. Here a brief summary of the ten key provisions:

1. **Freedom to work.** Everyone is free to work without the need to belong to a trade union ("open shop" provision) or to acquire a "carnet" or license to perform some jobs. This provision was incorporated a year later into the 1980 Constitution.
2. **Trade Union democracy.** Workers are free to form trade unions, without government approval, and every important decision (like electing officials or setting dues) must be decided by secret balloting.
3. **Decentralized collective bargaining.** Trade unions have the right to bargain at the company level and employers have to answer such demands. Since productivity and markets are unique for a company, even of the same industry, collective bargaining at the industry or national level is not protected by law.
4. **Right to strike and manage companies.** The right of workers to strike consists of their liberty to refuse to work without being fired. The right of employers to manage their own property consists of their liberty to hire replacement workers during a strike to avoid a company closure.
5. **Government non intervention.** Government officials and politicians are forbidden to intervene on collective bargaining or strikes. The government cannot set industry-wide wages.
6. **Pendulum arbitration.** In public services whose stoppage might create huge costs to society, collective bargaining disagreement requires that both sides enter pendulum arbitration, meaning that private sector arbiters must choose either the last company offer or the last trade union demand, but they cannot split the difference, thus creating an incentive for trade unions and companies to make reasonable "final" offers.
7. **Universal application of antimonopoly laws.** Antimonopoly laws apply to both companies and trade unions.

8. **Freedom to outsource.** Neither government nor trade unions can prohibit or restrict the freedom of companies to outsource or subcontract services.

9. **No illegal strikes.** The right to strike emerges at the end of a signed contract if there is disagreement over the terms of the new contract. The law does not protect strikes called at any other moment or for political motives.

10. **Symmetry.** Equal rules regulate employers, professional organizations and trade unions.

Note 1: This comprehensive Labor Reform also neutralized the “veto” of monopolistic trade unions on other public policies that benefitted the country. So, a year later, we were able to create a funded, defined contribution, Social Security system based on personal retirement accounts to completely replace the unfunded, defined benefit, and bankrupt pay-as-you-go pension system.

Note 2: The contribution of this Labor Reform to the prosperity, employment and industrial peace of Chile has been so evident that - despite much unfair criticism when this Reform was implemented – these ten key provisions have survived six very different governments in 34 years (four of them self-defined as "center left") and various domestic and international economic crises.