

THE AMERICAS

BRAZIL⁵³

El affiliates

- CNTE** (*Confederação Nacional dos Trabalhadores em Educação*) National Confederation of Workers in Education : 44 affiliated organisations with 1,036,600 members in public primary and secondary education.
- PROIFES** (*Federação de Sindicatos de Professores de Instituições Federais de Ensino Superior*) Federation of Trade Union of Teachers in Federal Institutions of Higher Education
- CONTEE** (*Confederação Nacional dos Trabalhadores em Estabelecimentos de Ensino*) National Confederation of Workers in Education Establishments

Ratification

- C. 98 Right to Organise and Collective Bargaining (1949) ratified 1952
- C. 100 Equal Remuneration (1951) ratified 1957
- C. 111 Discrimination (Employment and Occupation) (1958) ratified 1965
- C. 144 Tripartite Consultations (1976) ratified 1994
- C. 151 Labour Relations (Public Service) (1978) ratified 2010
- C. 154 Collective Bargaining (1981) ratified 1992

Major Investments in Public Education

The National Confederation of Education Workers (CNTE) of Brazil has campaigned on quality public education for all since the 1st World Education for All Conference in 1990. Brazil adopted a 10-year Education for All Plan (1993-2000) and became firmly committed to the goal of universal primary education. Through a range of Central and decentralised programmes, substantial investment and civil society mobilisation, primary school enrolment rates rose dramatically, particularly in the poorer States, and by 1999, it had reached 96%.

In 2007, the Brazilian government set up a new Fund (FUNDEB) to guarantee public funding from early childhood until middle school. In 2009, a further step was taken with the Constitutional amendment which made education compulsory between the ages of 4-17 years with the provision of free, public education. The proportion of GDP earmarked for education rose from 3.9% in 2001 to 5.1% in 2010.⁵⁴

⁵³ This text is largely based on a paper written by Eduardo Ferreira, CNTE Brazil, sent to the research coordinator on 24.01.2013 and with grateful acknowledgements to Juçura Vieira, CNTE Brazil, who provided additional information and comments.

⁵⁴ Juçura Vieira, El Vice-President from National Confederation of Education Workers



Law on national minimum salary for teachers in public education

The posts, categories and qualifications as well the salary scale and number of working hours for teachers in public education are established by Law. There is one career plan at Federal level for the federally maintained technical schools, 27 State career plans and 5,568 Municipal career plans. According to the Federal Constitution, the career plans for public employees are the responsibility of the States and Municipalities. There is a national council of Secretaries of Education which keeps a data base of the current career plans and salary scales, and the State education plans for comparative purposes.⁵⁵

One of the Workers Party (PT) government priorities has been a major endeavour to improve the quality of public education by improving conditions of employment and attracting qualified personnel. In July 2008, the Law 11.738 on the national minimum salary for teachers in public basic education (*Lei Nacional do Piso do Magistério*) was adopted which provided for a national entry level salary of R.950 (around Euros 300 at that time), a maximum working week of 40 hours of which a only two-thirds of the time would be class hours. The minimum salary was to be revised on an annual basis in January and all relevant public authorities were to up-date their career plans and salary scales to conform to the new national minimum at the latest by January 2010.⁵⁶

However, at State and Municipal level, there was considerable resistance to the introduction of the national minimum salary and in the absence of other mechanisms of dialogue, the CNTE teachers' unions needed to mobilise and take strike actions to demand that the law be implemented.

During 2011 and 2012, the CNTE have recorded the following most significant strike actions:

- 2011:** Minas Gerais, 112 days; Rio Grande do Norte 82 days; Maranhão 77 days; Ceará 63 days; Santa Catarina 61 days; Pará 54 days;
- 2012:** Bahia 115 days; Piauí 80 days; Federal District 52 days; Goiás 51 days;

One illustrative example of the reasons behind these strikes is in Minas Gerais where the salary adjustments for 2010 were sent to the Legislative Assembly in March without any consultation with the union (Sindicato Único dos Trabalhadores em Educação de Minas Gerais-Sind-Ute), which only found out about the proposal through the media.⁵⁷ The proposal was well below the national minimum which by Federal Law should have been in force by January 2010. Minas Gerais, which is one of the wealthiest States in Brazil, with a GDP growth of 10.9% in 2010, was paying the 8th lowest teachers' salaries in the whole country.

⁵⁵ <http://consed.org.br/rh/resultados/2012/>

⁵⁶ http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2008/lei/l11738.htm

⁵⁷ Sindicato Único dos Trabalhadores em Educação de Minas Gerais <http://www.sindutemg.org.br/novosite/conteudo.php?MENU=18&LISTA=detalhe&ID=124> accessed 7.02.2013

Freedom of Association and Collective Bargaining in the Public Sector

The 1988 Constitution and labour code protect the right to form unions in the private and public sector, with the exception of certain State employees (the military, uniformed police and fire services). Unions are registered by the Ministry of Labour with one union for each economic or occupational sector within a territory, a system known as “unicidade”. The government has not yet ratified Convention 87. The Constitution stipulates that the right to strike for public employees will be regulated by a special law, although this law has yet to be established. The Constitution further stipulates that public employees’ salaries will be established by law, and does not provide for the right to collective bargaining.⁵⁸

The ILO CEACR has called on the government to take steps to allow collective bargaining for public employees and has also noted the limitations on the right to collective bargaining in the private sector in that an agreement can be declared void if it goes against the economic or financial policies of the Government.⁵⁹

At Federal level, since 2003, there have been some advances in social dialogue between the government and Federal public employees. Under the Minister of Planning, a new position of Secretary for Work Relations in the Public Sector was created, which has acted in the role of mediator between government and employees. A working group was established in 2007 with a view to making recommendations on how to institutionalise collective bargaining in the public sector, regulating the right to strike and setting up a system of permanent negotiations in federal public administration.⁶⁰ For example, PROIFES negotiated a three year salary agreement in 2012 with the Ministries of Planning and Education, which was then transposed into a Bill and sent to the National Congress for enactment.⁶¹

President Lula ratified ILO Convention 151 in 2010, thereby re-affirming the right to form trade unions in the public sector, the principle of non-intervention of public authorities in their internal affairs and opening the possibility of collective bargaining in the public sector. However, to date, the government has not drawn up a Bill to regulate collective bargaining for public employees, largely because of difficulties in reaching consensus on the regulation of the right to strike in the public sector and the lack of consensus among the Trade Union Centres on the issue of “unicidade” and the trade union tax,⁶² which the CNTE and CUT do not support.⁶³

⁵⁸ *Rights of public employees Cap. 7-11*; http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm

⁵⁹ *Observation CEACR Report adopted 2011 and published 2012*

⁶⁰ <http://www.sindutemg.org.br/novosite/conteudo.php?MENU=1&LISTA=detalhe&ID=844>

⁶¹ <http://www.planejamento.gov.br/noticia.asp?p=not&cod=8715&cat=26&sec=11>

⁶² *The trade union tax (imposta sindical) is an obligatory deduction from a worker’s wages, paid once a year and equivalent to one day’s work. Established in 1943, it is distributed as follows: 60% to the local union; 15% to the federation; 5% to the confederation; 10% to the trade union centre; and 10% to Special Employment Fund of the Ministry of Labour.*

⁶³ *Idem Report by Eduardo Ferreira, p.1*



No legal protection for collective bargaining at State and Municipal level

At State and Municipal level, the forms of negotiation with public employees' unions depend largely on the political views and democratic inclinations of the elected governments as there is no legal protection for collective bargaining. There are many governments which therefore still refuse to consult or limit negotiations with the public employees unions, including the teachers unions.

The lack of regulation has created considerable political and legal uncertainty, in particular in relation to strike actions. Before October 2007, the State judiciary generally declared strikes by State or Municipal employees illegal on the grounds that there was a legal vacuum. Then, CUT took a test case to the Federal Supreme Court, with the result that the coverage of the law regulating strikes in the private sector was extended to the public sector, so that now all strikes in Brazil are regulated by the same Federal law no 7,783 of 1989.⁶⁴

In practice, the right to freedom of association of public employees is largely respected until a strike situation develops when the judicial authorities normally declare the strike illegal. However, there are cases when the government intervenes in trade union affairs, as for example in the case of Minas Gerais, where the government has sought to prevent trade union elections and the State Judiciary has taken no action against any public authority.⁶⁵

Because of the lack of collective bargaining, or other forms of consultation, there are often quite extensive strikes in the public education sector and trade unions or individual trade union leaders can be fined for not respecting the judicial decision. A notorious case in this respect concerned the President of APEOESP⁶⁶ in Sao Paulo who was fined almost USD 2 million for not respecting a judicial decision to end an action which was termed a General Assembly of the trade union. The Civil Code can also be used to ban or restrict pickets on the grounds of safeguarding property.⁶⁷

Impact of the Financial Crisis

Although Brazil has not suffered from the financial crisis to the same extent as the United States or the European Union, it has been necessary to sacrifice some public policies in order to compensate for the drop in exports and to maintain employment levels. Brazil is currently enjoying the lowest level of unemployment in its post-industrialisation history at 5.2%. The Government has reduced or waived various taxes in exchange for agreements with certain key economic sectors to maintain employment levels and consumer demand.

⁶⁴ *idem*

⁶⁵ *Idem Report by Eduardo Ferreria idem p. 2*

⁶⁶ *Sindicato de Professores do Ensino Oficial do Estado de São Paulo*

⁶⁷ *ITUC Annual Survey on Trade Union Rights 2012 Brazil* <http://survey.ituc-csi.org/Brazil.html#tabs-3>

GOOD PRACTICE: THE NATIONAL CONFERENCES ON EDUCATION

One of the key strategies of the Workers' Party government has been to open channels of dialogue with civil society. In 2007, there was the National Conference of Basic Education, in 2009, the National Conference on Technical-Professional Education and in 2010, the National Conference on Education (CONAE). Each National Conference was preceded by Municipal, regional and State level conferences. The Conferences are discussion forums and also influence and guide public policies.

Another success of CONAE has been the creation of the National Forum on Education, which coordinates the Conference and is representative of the education community. The Forum meets regularly and its operating costs are covered by the Ministry of Education. The plan is to replicate this system at State and Municipal level in order to encourage debate and participation in the development of Education Plans.

CNTE has been an active proponent of the new 10-year National Education Plan, which is currently in the Senate. Of the 3000 amendments presented to the Bill on the National Education Plan, more than 2000 originated in the CONAE, including the key proposal to earmark the equivalent of 10% of GDP to public education. Among the objectives are to guarantee adequate public funding for the education system for children from 4-17 years old, together with provisions for those children and adults who did not access education at the appropriate age. The plan also calls for the provision of sufficient nurseries to meet the demand, and programmes to increase the numbers of 15-17 years old in secondary education, which is only 50% of the age group currently. Another key demand is to reach equivalence between the average salaries of teachers and other professionals because at the moment a teacher earns about 40% less than other professions with similar levels of training.

CNTE has mobilised support for the National Education Plan and the implementation of the national minimum teachers' salary. They have carried out marches in the Federal capital, Brasilia, an occupation of the National Congress, and protests in the different States. The struggle continues with a planned 3 day national strike in April 2013 during the National Action Week for Quality Education.

For the CNTE, the main priority in the near future will be to work to ensure the adoption of legislation to regulate collective bargaining in the public sector.

Education expenditure and GDP growth

% GDP spent on education	% public expenditure on education	GDP % Growth
2008: 5.5 %	17.4 %	5.1 %
2009: 5.6 %	16.8 %	-0.2 %
2010:		7.5 %
2011:		2.7 %

Source World Bank/IndexMundi/SNAT (CPI figures)