

## INTRODUCTION

# NEOLIBERALISM, LABOR POLICY REFORM, AND POWER THROUGH THE LENS OF CHILE

Neoliberalism represents an economic, political, and ideological project based on the disorganization of political economies—that is, on market liberalization, individual action, and spontaneous market-based aggregation of preferences (Harvey 2005; Streeck 2009). Baccaro and Howell (2017, 177) demonstrate that this “disorganization” entails the removal of protective labor laws in order to expand employers’ discretionary power in employment relations. They also show how, since the 1980s, the dismantling of protective legislation has coincided with a shift in the balance of class power; a shift in which weakened trade unions began to face radicalized, politicized, and “self-confident” employer organizations, eager to liberalize more and more national systems of industrial relations. In emphasizing the importance of class power, Baccaro and Howell’s analysis implies that understanding the nature of neoliberalism requires examining not only the institutional transformation that led to its emergence and consolidation but also the dynamics of power between classes that shape its further development.

This book studies neoliberalism, class power, and labor law. It investigates labor reforms carried out by progressive governments to explain

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why probusiness labor legislation established during the shift to neoliberalism is so difficult to reform. Focusing on reforms to collective labor law (which regulates the rights to unionization, collective bargaining, and striking), this book argues that analyzing the balance of power between workers and employers is crucial for understanding labor reform outcomes. Existing literature on labor policy reform offers explanations that stress government resolve to pursue reforms, emphasize the effects of authoritarian legacies, and focus on how the linkages between labor and center-left ruling parties shape policy outcomes. Without denying the importance of these factors, this book argues that these factors must be understood together with the processes through which workers and capitalists organize to influence the policymaking process. In other words, studying the effect of such factors requires examining how workers and employers build and mobilize associational power in order to influence government policies.

This book analyzes labor law reform and class power by focusing on the case of Chile. This is a country in which, following Baccaro and Howell's (2017) terminology, the establishment of neoliberalism entailed a "frontal attack" on the previous protective labor legislation. In Chile, this attack took place during the dictatorship of Augusto Pinochet (1973–1990) and was enshrined through the enactment of the 1979 Labor Plan. The Labor Plan decentralized collective bargaining by restricting it to enterprise level only, weakened unions' bargaining power by promoting interunion competition within companies and between sectors, and undermined the right to strike by allowing employers to hire replacement workers during strikes. The authoritarian legislation also undercut unions' bargaining power by promoting competition between unions and bargaining groups (*grupos negociadores*), which can be formed to sign collective bargaining instruments regardless of whether the firm already has a union (Feres 2009b; Rojas 2017).

With the return to democracy in 1990, governments of the center-left Concertación political coalition claimed the need to reform the labor code. To do so, presidents Patricio Aylwin (1990–1994) and Ricardo Lagos (2000–2006) proposed bills to amend the labor law. However, while improving the protection of some individual labor rights, these reforms did not affect the central pillars of the Pinochet legislation (Barrett 2001; Carnes 2014; Cook 2007; Feres 2009b; Murillo and Schrank 2005; Rojas 2017; Frank 2015). As a result, despite Chile's successful transition to democracy, no labor demands have yet been met. Collective bargaining continues to take place at a company level, and union bargaining power remains weak. Although union membership rates have slowly increased

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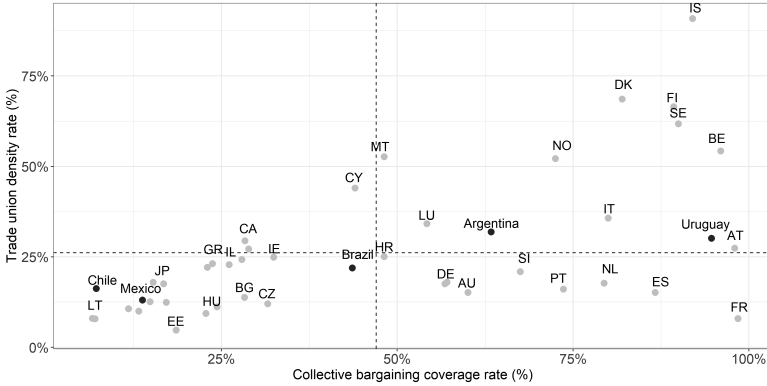


Figure I.1. Collective bargaining and trade union density rates for OECD countries, Argentina, and Uruguay (2015). Dotted lines represent the average for each axis. *Source:* Author, based on data from ICTWSS (Vissler 2019). Data for bargaining coverage in Chile is based on Durán and Gamonal's (2019) estimates; data for Uruguay is from ILOSTAT (ILO 2022).

in the last decade, most likely due to the revitalization of union activism, in 2015 trade union membership and collective bargaining coverage rates in Chile were among the lowest of all countries in the Organisation for Economic Co-operation and Development (OECD) (around 15 percent of salaried workers were unionized, whereas only 7 percent were covered by a collective bargaining agreement).<sup>1</sup> As shown in figure I.1, in 2015 trade union membership and collective bargaining coverage rates in Chile were even below than those found in other Latin American countries such as Argentina, Brazil, and Uruguay.

To address these problems and workers' long-standing demand to repeal the 1979 legislation, in 2014 Socialist president Michelle Bachelet made the latest attempt to reform the Labor Plan. She proposed a labor reform bill to extend collective bargaining power, empower unions vis-à-vis bargaining groups, and revoke the provisions that allowed employers to replace striking workers. Some center-left policymakers and party leaders even contended that they would use this opportunity to propose measures to promote sectoral bargaining (*El Mercurio* 2015e). Labor leaders in the Central Confederation of Workers (Central Unitaria de Trabajadores, or CUT) enthusiastically endorsed Bachelet's reform project. In contrast, the Confederation of Production and Commerce (Confederación de la Producción y del Comercio, or CPC)—the Chilean employers' association—strongly opposed the reform bill. Employ-

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ers claimed that the government's proposal would establish a "union dictatorship" within companies, and undermine free markets by expanding collective bargaining rights to a sector-wide scale (*El Mercurio* 2015c, 2014). In response, the labor minister insisted that the government was committed to changing the laws that "had not been reformed since 1979" (*El Mercurio* 2015a).

Compared to previous reform attempts, in the mid-2010s the conditions for prolabor reform had improved. Constitutional reform initiated by President Lagos in 2005 had eliminated the nine unelected ("designated") senators who overrepresented conservative views in the legislature by voting with right-wing parties, and the comfortable electoral victory of 2013 gave President Bachelet's coalition (the New Majority, or NM) the partisan majority in both the Senate and the Chamber of Deputies. Since the late 2000s, Chile had also witnessed a revitalization of union activism. After years of labor quiescence, unions from strategic sectors, such as mining and the port industry, as well as from traditionally "unorganizable" industries, such as retail, led highly disruptive industry-wide workplace mobilizations, which in many occasions, resulted in significant gains for workers (Aravena 2009; Bank Muñoz 2017; Manky 2018; Fox-Hodess and Santibáñez Rebolledo 2020). As a result, by the mid-2010s labor unions' disruptive power was significantly stronger than it had been in a long time (OHL 2016; Pérez, Medel, and Velásquez 2017). Similarly, massive protests initiated in 2011 demonstrated that the demand for profound transformations of the neoliberal model of development was endorsed by a significant number of Chileans (Von Bülow and Donoso 2017). Aware of this situation, NM leaders and Bachelet herself adopted a more "leftist" approach and, among other things, decided to include the Communist Party (PC) in the coalition. This was crucial for organized labor. In 2012, communist worker Bárbara Figueroa was elected president of the CUT, and the PC became the hegemonic political force within the national labor confederation. Thus, for the first time since its founding in 1988, the entire CUT leadership—from Christian Democrats to Socialists and Communists—was aligned with the governing coalition.<sup>2</sup>

However, despite the hopes of organized labor, the efforts of NM policymakers, and generally favorable conditions, the Bachelet reform attempt failed to overturn the central aspects of the 1979 Labor Plan. All the prolabor measures that were initially included in the proposed bill of law, or suggested during the 2015–2016 legislative debates, were either dropped from the bill or watered down in such a way that the resulting law (Law 20,940) had no positive impact on workers' collec-

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tive rights. Much like the previous legislation, Law 20,940 continues to define agreements beyond the level of the firm as voluntary for employers. Also, union bargaining power continues to be weakened by laws that promote competition between unions and allow for semiregulated collective conventions (*convenios colectivos*) as opposed to more standard (regulated and legally protected) collective bargaining agreements (*contratos colectivos*). As I shall show in chapter 3, due to the lack of specific rules regulating this matter, the new legislation continues to allow employers to promote the signing of semiregulated conventions and, by extension, the formation of bargaining groups that sign them. These conventions are favorable for employers because they do not grant workers the protections typically associated with standard collective bargaining agreements—particularly, the right to strike or special protections (*fueros sindicales*) for the leaders of the group that sign the convention. As a result, labor unions have strongly criticized the persistence of the provisions that allow for them. Finally, the right to strike is still undermined by clauses that, while formally prohibiting the replacement of strikers, authorize employers to make any necessary modifications to nonstrikers' shifts in order to ensure the firm's provision of broadly defined minimum services.

Why did the Bachelet bill fail to dismantle the probusiness regulations that have undermined workers' collective rights since 1979? More generally, why is it so difficult to reform probusiness collective labor law? How, in the context of highly globalized and neoliberalized societies, can workers overcome the constraints progressive governments face in promoting prolabor policies? How, in these contexts, can organized labor influence the policymaking process? This book addresses these questions through an explanation that emphasizes class-based collective action and power. It argues that examining both workers' and employers' capacities to organize collectively to advance their class interests is key to understanding labor reform outcomes as well as the way in which they shape power inequalities in neoliberal societies.

Existing literature on labor policy reform offers explanations that stress government resolve to pursue reforms, emphasize the effects of authoritarian legacies, and, as theorized in the traditional Power Resource Approach (PRA) (Korpi 1985), focus on how the linkages between labor and center-left ruling parties shape policy outcomes (Caraway, Cook, and Crowley 2015; Carnes 2014; Cook 2007; Murillo and Schrank 2005). While not denying the importance of these variables, I contend that they must be understood together with the processes through which workers *and* capitalists organize to influence the policymaking process.

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This requires a new theorization of class power that, in turn, strengthens the explanations derived from the traditional PRA. The PRA explains variations in social policy by focusing on working-class power, which is understood in the form of partisan linkages between unions and center-left ruling parties (Korpi 1985; Esping-Andersen 1985). Although the traditional PRA made a significant contribution to our understanding of how organized labor shapes social policy, it paid little to no attention to two key aspects of class relations; namely, business power and forms of power that go beyond partisan linkages—particularly, those defined under the notion of associational power (Wright 2000; Bank Muñoz 2017; Schmalz, Ludwig, and Webster 2018). These aspects of class relations have become a central feature of current neoliberal society. The balance of power has shifted from labor to capital, and neoliberal ideologies have permeated center-left parties, thereby weakening their linkages to unions (Roberts 2002; Collier and Handlin 2009; Gumbrell-McCormick and Hyman 2013). In this book, I contribute to the power resources literature by addressing these two dimensions. I propose a *relational model of class power* that stresses the central importance of *associational power*, allowing for an analysis of how the balance of power between workers and capitalists helps explain why collective labor laws are so resistant to change.

Associational power has traditionally been defined as the type of power workers develop through the formation of collective associations such as unions and work councils (Wright 2000). In this book I extend the concept of associational power to include how workers *and* employers organize to advance their class interests. Although associational power can be developed on different levels—the workplace, an economic sector, or on a national scale (Wright 2000)—I focus on how it is mobilized at the level of the political system (the national level), through the formation of “peak” (multisectoral or economy-wide) associations of employers and labor confederations. I do so because it is at this level where organized labor and business interact with the state to influence the policy-making process, with differing degrees of success.

This theoretical model is based on two basic premises. The first is that power denotes a *capacity*. Power refers to either a capacity to *act* collectively in order to build associational power or a capacity to *mobilize* resources in different realms of society (e.g., economic, political, or discursive resources) in order to advance class interests (Brookes 2018; Rhomberg and Lopez 2021). My second premise is that power must be understood as a *relational* concept. This means that the analysis of working-class power has to consider how it affects and is affected by

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capitalist power, and vice versa (Wright 2000; Schmalz, Ludwig, and Webster 2018). Based on these premises, I explain not only how classes succeed (or fail) in constructing collective power but also how associational power disparities shape labor reform outcomes. I demonstrate that despite recent processes of labor revitalization at the firm or sectoral levels, the CUT has been unable to build associational power at the level of the political system due to the continuity of the 1979 Labor Plan and as a result of its own organizational structures. Designed to ensure partisan rather than interunion agreements, these organizational structures not only reproduce practices that perpetuate labor's subordination to political parties but also amplify political and partisan conflicts between unions that increase the fragmentation and strategic divisions within labor. In this book I also show how, in contrast to the CUT, the CPC has successfully developed employer associational power through organizational structures that facilitate consensus among the sectoral associations that form its membership. In doing so, the CPC has forged strong capitalist class solidarity and consensus regarding the strategies to confront reformist governments. This explains why Chilean employers have been so successful at defending the continuity of the 1979 labor legislation, although by the mid-2010s, several political power resources that were readily available for use in previous decades had been downplayed or no longer existed.

In this book, I contend that the disparity of associational power is crucial for explaining the resilience of probusiness labor legislation. This is because, as *power in action* (Rhomberg and Lopez 2021), associational power affects how classes mobilize other forms of power. Focusing largely (but not exclusively) on how the CUT and the CPC have used political power resources—for example, linkages to parties and policymakers—to influence the policymaking process, I show that when associational power is strong, the impact of these political forms of power is augmented. Through this emphasis on the associational aspects of power, I argue that power imbalances should not be conceptualized as merely the outcome of economic differentials between, say, capitalists and workers. Economic resources certainly facilitate employers' organizational capacities by providing business associations with technical, material, and infrastructural resources. Yet, substantial research shows that economic resources can be detrimental to employers' associational power, as they can discourage the membership of certain firms in such associations (Schmitter and Streeck 1999; Traxler, Blaschke, and Kittel 2001). In other words, while important, economic resource disparities do not provide the sole explanation for the imbalance of power between

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workers and employers. If this were the case, employers' power would be a constant—that is, it would be equally strong in any capitalist society. Nevertheless, chapter 6 includes a comparative analysis of labor reform in Argentina and Uruguay, showing that there are significant variations in employers' power to oppose pro-labor reforms. Compared to their Chilean counterparts, employers' organization in Argentina and Uruguay is weaker because business associations are more fragmented and divided and no encompassing association plays the unifying role of the CPC in Chile. I show that the weak associational power of business and the stronger associational power of workers explain why pro-labor reforms were more successful in these countries than in Chile.

Based on this evidence, I argue that in neoliberal society the relational nature of power is expressed in different ways, in which the level of employer organization affects the ability of workers to organize, and vice versa. In the case of Chile, weak labor unions are, to a large extent, the result of how strong associational power has allowed employers to ensure the continuity of the 1979 neoliberal legislation. At the end of this book, I argue that workers can counteract this scenario by developing autonomous associational power to establish a more symmetrical relationship with left-wing parties (which is to say, a relationship in which parties can defend working-class interests in the legislature *without* sacrificing labor autonomy). The comparative analysis with Argentina and Uruguay enables me to argue that when this occurs, union-party linkages can truly become an effective source of leverage for the working class in neoliberal society.

### **Neoliberal Labor Relations and Class Power in Chile**

Chile is an interesting case study of labor policy and class power for several reasons. First, in comparative research Chile represents a “mature” case of neoliberal political economy. Neoliberalism can be defined as a general process of market liberalization rooted in the deregulation or “disorganization” of political economies; that is, in the shift from centralized coordination and control to dispersed competition, individual action, and spontaneous market-based aggregation of preferences (Streeck 2009, 96–97). In the realm of industrial relations, this process of liberalization involves the expansion of “employer discretion” in wage determination, personnel management, work schedule organization, and hiring and firing (Baccaro and Howell 2017, 20). Thelen (2014, 12–15) identifies three ideal-typical paths of labor market liberalization. The first path, which she defines as “deregulatory liberalization,” involves not



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only the active political dismantling of institutions created to coordinate industrial relations (e.g., centralized bargaining) but also a decline in the capacity of such institutions to produce egalitarian or solidaristic outcomes (e.g., to protect a significant number of employees through collective bargaining agreements). This path of liberalization, observed in liberal market economies such as the US and the UK in the 1970s and 1980s, was achieved through the “displacement” of previous institutions (Baccaro and Howell 2017; Thelen 2014, 13). Therefore, it involved a “frontal attack” on the institutions “that had once supported collective regulation and limited employer discretion” (Baccaro and Howell 2017, 173). In contrast to the “deregulatory” path, in the other trajectories of liberalization identified by Thelen, the coordination of industrial relations persists but in the context of a narrowing in the number of firms and workers covered under the resulting arrangements (e.g., the process of “dualization” observed in Germany), or the introduction of new forms of flexibility occurs within the context of a continued strong and encompassing framework that collectivizes risk (e.g., Denmark’s “embedded flexibilization”).

Drawing upon this terminology, the 1979 Labor Plan in Chile represents a case of deregulatory liberalization rooted in the frontal attack on previous legislation, similar to the cases of the US and the UK during the administrations of Ronald Reagan and Margaret Thatcher, respectively. In the US, for example, the liberalization of industrial relations implied the collapse of unions, the dismantling of the old system of collective bargaining, and the establishment of an “individualized” framework made of “a set of legal options to which individual workers can turn if employers violate various employment laws” (Thelen 2014, 36). In Chile, under the influence of the Chicago Boys, the Pinochet dictatorship began this frontal attack in the late 1970s. Thus, due to the authoritarian context in which neoliberal policies were implemented, Chile’s labor market liberalization not only took place earlier but also became more deeply entrenched than anywhere else (Cook 2007). In other Latin American countries, similar policy changes took place *after* their democratic transitions. Influenced by the Washington-consensus deregulatory agenda, in the early 1990s these countries implemented reforms that promoted “atypical” (temporary) labor contracts, reduced severance pay, and sometimes made workdays and work schedules more flexible (Cook 2007; Fraile 2009; Murillo 2005a; Vega Ruiz 2005; Weller 1998). However, due to the democratic context in which these reforms were implemented, the enhancement of employer discretion was more contested and, in many cases, less successful than in Chile (Cook 2007; Marshall 2005).

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In contrast, in Chile the neoliberal agenda was enacted through several decree laws that completely replaced the legislation contained in the 1931 Labor Code. The first of these was Decree Law 2,200. Passed in 1978, it deregulated hiring and dismissal policies.<sup>3</sup> A year later, in 1979, the dictatorship carried out the most significant and enduring transformation of labor legislation by passing decrees 2,756 on union organization and 2,758 on collective bargaining and strikes (Feres 2009b; Narbona 2014; Rojas 2017). With the overt goal of liberalizing and “depoliticizing” collective labor relations (Piñera 1992), these two decrees were fused together through the 1979 Labor Plan. Focused exclusively on regulating collective labor relations, the Labor Plan was, in the words of its architect Minister of Labor José Piñera (1992, 23), a “syndical plan” that aimed to dismantle all the “corporatist” regulations of the 1931 Labor Code. According to Piñera, the market economy needed labor legislation that got rid of old “corporatist policies.” Through the promotion of “politicized” industrial relations—for instance, state-led bargaining that artificially increased the power of “union bureaucracies”—corporatist policies interfered with the “natural equivalence” between salary and labor productivity. Therefore, Piñera contended, the new legislation should dismantle any interference of industrial relations on market forces, whether in the form of centralized bargaining, closed shop agreements, or exclusive union representation of employees in a firm or throughout an entire industry.

Based on these extremely liberal, probusiness, and labor-repressive principles (Rojas 2007), the Labor Plan restricted collective bargaining to the level of the individual enterprise (although the law recognized the legal existence of labor confederations, sectoral or national-level bargaining was prohibited) and limited the scope of bargaining to deal exclusively with economic issues. According to Decree Law 2,758, any issue that might undermine the employers’ right to manage the firm was explicitly excluded from the bargaining process. Likewise, the 1979 legislation undercut union bargaining power by denying the principle of *titularidad sindical*, according to which only the union has the right to collective bargaining. Decree Law 2,758 (Article 2) established that collective bargaining could take place not only between an employer and a union, or multiple unions competing with each other within firms (the principle of union parallelism),<sup>4</sup> but also between an employer and “a group or workers” (i.e., a bargaining group) formed with the sole purpose of signing a collective bargaining agreement (*contrato colectivo*). Closely related to this, the law stated that workers could also sign semi-regulated collective conventions (*convenios colectivos*) as alternatives to

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regular collective bargaining agreements. In recognizing this distinction between collective bargaining agreements and conventions, the legislation set an important precedent for future policies and for industrial relations as a whole. This distinction was further entrenched through Law 16,620 (1987), which established that, unlike collective bargaining agreements, collective conventions would not grant workers special protections during the bargaining process—most notably, as noted above, the right to strike and the protection (*fueros sindicales*) from dismissal for the leaders of the group (usually a bargaining group) that sign the convention (Rojas 2007). Since then, this distinction has had a significant impact on workers' bargaining power. It allowed (and still allows) employers to undermine unions' power by encouraging the formation of bargaining groups and the signing of collective conventions, as opposed to the "standard" bargaining process—that is, a collective agreement signed by a union. This explains why, as chapters 2 and 3 will show, the CUT has demanded the repeal of these policies, just as the CPC has strongly defended them.

As for the right to strike, the Labor Plan restricted it by allowing employers to hire strike replacements and by limiting strike activity to the margins of the bargaining process. Any type of industrial action outside the bargaining process (e.g., solidarity strikes) was forbidden. According to Minister Piñera, the right of workers to mobilize for higher wages had to be subjected to "market discipline" (Piñera 1992, 18), as expressed by labor productivity. Thus, Piñera states, in no way should striking be used for "political" purposes or as a means of wealth redistribution (Piñera 1992, 26–28).

Despite their anti-union orientation, the central aspects of the 1979 laws have remained intact in the subsequent democratic period as all attempts to repeal them have failed. Here lies a second reason why Chile is an interesting case study. Although Chile is usually depicted as an example of successful democratic restoration, it differs from other Latin American countries (e.g., Argentina and Uruguay) where many of the provisions for enhanced employer discretion that were passed during the neoliberal reform era were later revoked or watered down through legal changes that strengthened workers' collective rights (Murillo, Ronconi, and Schrank 2011; Senén González 2011; Quiñones 2011; Carnes 2014). Noting such developments regarding collective labor law, Anner (2008, 35–36) concludes that by the end of the 2000s Latin American labor laws were, at least on paper, more "union-friendly" than the legal systems of other regions. Although Anner's assertion may be correct in comparative terms, it does not apply to Chile. Chilean labor legislation

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is unique for its combination of relatively strong protections of workers' individual rights and highly restricted collective rights (Gamonal 2011; Carnes 2014).

Some analysts argue that workers' collective rights are restricted by the resilience of the 1979 labor laws and by the hyper-regulation of labor relations resulting from the unsuccessful attempts to repeal them. According to labor experts Sergio Gamonal (2011, 93) and María E. Feres (personal interview, August 17, 2015), since the return to democracy, center-left policymakers have compensated for the lack of significant labor reforms with amendments that, while strengthening the protections for individual labor rights, increased the rigidity of most aspects of collective labor relations. For example, the amendments made the formation of unions more difficult and established numerous stages that workers must go through during the bargaining process before having the right to strike. Thus, as an unintended consequence, the amendments have undercut workers' abilities to organize and mobilize. In this sense, since the return to democracy in 1990 Chile resembles what Baccaro and Howell (2017, 185) define as the "Third Way" of organizing employment relations. Taking the British case during the New Labour government (1997–2000) as an example, they contend that the Third Way addresses the dilemma of protecting labor in the context of union weakness in two different ways. First, without affecting labor market flexibility, it increases the legal protections of workers in the form of minimum rights in the labor market. Second, it emphasizes the workers' "voice" as a public good. This is to say, it encourages the voice of unions being heard, even though labor policy does little to protect workers' collective rights (in the British case, Baccaro and Howell argue, labor reforms during the New Labour government did little to restore the collective labor rights that had been removed during the Thatcher era). In simpler words, Baccaro and Howell (2017, 185) describe this approach as one centered on "the provision and enforcement of individual rights in the workplace by the state, with only a peripheral role for collective representation and collective bargaining." In the following chapters I will show that the failed attempts to reform the 1979 Labor Plan are in part the result of how center-left policymakers adopted a similar approach to industrial relations in Chile. Yet, I will also show that, while playing a key role, state actors were not the only causal factor that explains the continuity of the neoliberal labor legislation. In line with Baccaro and Howell's (2017, 13) argument, I demonstrate that the impact of policymakers' actions was in part dependent on the sociopolitical contexts defined by the balance of power between classes.

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Here lies the third reason for why Chile is a good case study for analysis. The country represents a paradigmatic example of how the neoliberal project was accompanied by a dramatic shift in the balance of class power. Baccaro and Howell (2017, 177) describe this shift as one in which weakened and divided trade unions face resurgent, radicalized, and politicized employer organizations. They show that in Western Europe the rise of neoliberalism goes hand in hand with the emergence of “a more self-confident, more political employer class willing to seek substantial change in national industrial relations systems, and always in a more liberalizing direction.” In the following chapters, I use the notion of associational power to explain this power imbalance between the working and capitalist classes. I analyze the revival of the CPC starting in the 1980s to describe the processes through which a neoliberal, highly politicized, and “self-confident” employer class was formed in Chile.

The rest of this chapter proceeds as follows. I first review the literature on labor policy reform and describe how this book contributes to labor reform theory. I argue that several factors emphasized in the literature (e.g., state actors’ willingness to pursue reforms and authoritarian legacies) should not be analyzed in isolation from the way in which classes organize to advance their interests, as has been stated in recent explanations derived from the traditional PRA. Then, after laying out how the traditional PRA has contributed to the study of social policy, I show how it has paid less attention to two key aspects of class relations that are the focus of this book: business power and those forms of class power that do not derive from partisan linkages—particularly, those expressed in the notion of associational power. At the end of the chapter, I present a description of the methods and data used in this research and an outline of the book.

### **Labor Reform in Neoliberal Societies**

There have been recurring debates on labor policy reform in recent decades. Most scholarly research has focused on explaining cross-national variations in the scope and extent of regulations that protect workers’ individual and collective rights (Murillo and Schrank 2005; Cook 2007; Anner 2008; Fraile 2009; Murillo, Ronconi, and Schrank 2011; Carnes 2014). Recent research has emphasized explanations based on three interrelated factors: legacies of the dictatorship, state actors, and class politics (i.e., class-based power relations and how they affect state policies). These explanations have contributed to the study of labor policy by nu-

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ancing standard economic accounts, which in the context of globalized capitalism, assume that the impact of international economic pressures (e.g., the liberalization of industrial relations) has been the same for all countries, regardless of their specific institutional legacies and political dynamics. In contrast to this perspective, social scientists have proposed explanations that emphasize how the impact of external economic processes is mediated by institutions, governments, or the balance of power between classes in each country. While the variables emphasized in these explanations usually overlap, it is possible to separate them according to the mechanism stressed as the *main* factor accounting for either the change or the persistence of labor policies, laws, and regimes.

### *Legacies*

Without denying the central importance of economic constraints derived from globalization, this explanation focuses on how past events—commonly referred to as legacies—shape existing labor policies. By emphasizing path dependency, this explanation centers on the way in which sociopolitical, institutional, and ideological legacies inherited from the past—for example, from authoritarian regimes—have lasting effects that shape both labor laws and the actors that struggle to change them.<sup>5</sup> Caraway, Cook, and Crowley (2015, 17) contend that authoritarian legacies can be observed not only through the continuity of labor laws that define the “strategic terrain” on which actors operate but also through the survival of actors and ideologies formed during the old regime that play a crucial role in defending institutional legacies. Based on this framework, Collier and Schipani (2015) assert that, while the most repressive laws established during authoritarian governments do not usually survive the restoration of democracy, countries such as Chile, Indonesia, the Philippines, and Russia stand out for having several authoritarian-era regulations that restrict basic labor rights—such as the right to strike—to this day.

Building upon this idea, Cook (2007) finds that the pattern of labor law reform in Latin America is shaped by the legacies inherited from each country’s historical trajectory. She shows that in countries with strong corporatist trajectories (e.g., Argentina and Brazil), laws that strengthen union power—for example, laws that limit interunion competition and provide unions with financial security—were more resistant to change during the authoritarian regime. The continuity of corporatist provisions provided workers with important institutional power resources after the return to democracy, which allowed them to mobilize and oppose government attempts to increase flexibility more effectively than

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in countries like Chile, where such corporatist trajectory did not exist (Etchemendy and Collier 2007; Bensusán 2016).

In his study of Chile during the Concertación center-left coalition, Frank (2015) emphasizes the importance of neoliberal ideological legacies. Inherited from the Pinochet dictatorship and consolidated during the democratic period, these legacies permeated center-left policymakers and were expressed through the Concertación leaders' adoption of "minimalist" conceptualizations of industrial relations and social agreements. According to these ideas, social agreements were optimal as long as labor and capital were willing to maintain a minimum dialogue and the country was not plagued by labor disputes. For Frank, ideological legacies in Chile were also expressed through the way in which previous experiences of polarization in the early 1970s—which eventually led to the coup d'état—led center-left state actors to place significant importance on building consensual relationships with right-wing opposition parties and business elites (Frank 2015, 190). Similar to Frank, other scholars have noted the importance of political and institutional aspects, such as the binomial majoritarian electoral system (which existed until the mid-2010s), the constitutionally "designated" and nonelected senators (eliminated in the 2005 constitutional reform), and the constitutional court system (still in place to this day). These legacies provided right-wing parties with a veto power that they would not have otherwise had (Garretón 2000; Fuentes 2012). In doing so, they facilitated business influence in the policymaking process (Frank 2002; Durán-Palma, Wilkinson, and Korczynski 2005).

### *State Actors*

Closely related to the legacy-based approach, scholars have also shown that state actors play a crucial role in shaping labor policy. In its original formulation, this account draws upon the "state-centered" approach to social policy (Evans, Rueschemeyer, and Skocpol 1985; Skocpol 1985; Amenta 2005). This approach defines the state not merely as the outcome of the influence of social forces but rather as an actor with its own financial and organizational resources, which is formed by a class of civil service administrators who respond to their own interests (Skocpol 1985, 21; Amenta 2005, 96). Drawing upon this idea, state-centered scholars contend that state actors play a key role in the policymaking process insofar as they have interests in certain policy outcomes—for example, welfare state expansion—and enjoy privileged access to organizational resources in order to achieve these desired outcomes (Orloff and Skocpol 1984; Skocpol and Amenta 1986; Steinmo 1993).

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Latin American scholars have used these types of formulations to explain cross-national variations in labor policy. They note, for example, that in Chile the Pinochet-era legislation has been more resistant to change than anywhere else as neoliberal views in this country were stronger and permeated important sectors of Concertación policymakers. This, in turn, made center-left policymakers less willing to implement significant prolabor reforms (Barrett 2001; Taylor 2004; Feres 2009a).<sup>6</sup> Scholars have also drawn upon state actor-based arguments to explain why the arrival of center-left governments with post-neoliberal agendas in the 2000s resulted in the implementation of important union-friendly policies in some countries (e.g., Argentina and Uruguay) but not in others (e.g., Brazil) (Senén González 2011; Quiñones 2011; Cook and Bazler 2013). According to these analyses, prolabor reforms were less successful in countries where, such as Brazil under the administration of Lula Da Silva, center-left policymakers preferred conciliatory policies to ensure the political neutrality of business elites (Mayer 2018, 155; Krein and Biavaschi 2015, 63).

### *Class Politics and Power*

Finally, there is extensive literature that focuses on the balance of power between class-based actors (especially unions) and the political parties allied with them to explain cross-national variations in labor law. Within the traditional literature on welfare states, research espousing the PRA has emphasized the central importance of distributive conflict that reflects basic class-based splits in employment relations and labor markets (Esping-Andersen 1985; Korpi 1985). According to Power Resources scholars, this conflict shapes the primary dynamics of politics and policymaking (Korpi 2006). Based on this premise, these scholars have demonstrated that left-wing parties representing disadvantaged classes or relying on labor power are the main promoters of welfare state expansion (Esping-Andersen 1985; Huber and Stephens 2005; Korpi 2006). Through an analysis of the origins of welfare states, Korpi (2006) asserts that this is a key difference between left-wing parties and right-wing or conservative parties: while the former are the *protagonists* of protective policies, the latter endorse welfare state expansion only when they are compelled to do so, in contexts of party competition and growing working class mobilization—that is, when they stop being *antagonists* and become *consenters* to welfare policies.

Building upon the central argument of the PRA, research on neoliberalism in Latin America has demonstrated that when the linkages between left-wing parties and unions are stronger, promarket reforms



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are more difficult to pass because unions have more opportunities to influence policymaking processes (Murillo 2001; Madrid 2003; Huber and Stephens 2012). Similar arguments have been made regarding labor policy: when party-union ties are strong, protective labor legislation is more likely to pass (Murillo and Schrank 2005; Murillo, Ronconi, and Schrank 2011; Carnes 2014; Antía 2018). By contrast, when such ties are loose and labor power is thus weak, labor laws tend to be more business oriented. This is precisely what scholars have noted regarding the case of Chile in the early 1990s and 2000s. After years of dictatorial repression of unions and left-wing parties, combined with a radical neoliberal restructuring, labor unions entered the democratic period in a position of weakness that made them unable to push for redistributive reforms (Durán-Palma, Wilkinson, and Korczynski 2005; Cook 2007; Feres 2009a).

Recent research has expounded upon the standard PRA argument. Some scholars argue that labor power depends in part on unions' capacity to build alliances with other social movements. When organized labor acts together with indigenous, gender, and student movements, the argument goes, its power to oppose austerity measures is stronger (Huber and Stephens 2012; Kingstone, Young, and Aubrey 2013; Niedzwiecki 2014). Others contend that labor power also depends on government power. In his study on how European welfare states protect labor market "outsiders," Rathgeb (2018) finds that when governments are weak—that is, when they are internally divided or do not hold a majority of seats in the parliament—they need support from extraparliamentary actors to pursue their redistributive goals. When this occurs, Rathgeb points out, labor power is strengthened because governments are more responsive to workers' demands.

In sum, without dismissing the importance of the factors favored in other explanations, the PRA has contributed to the study of social policy by emphasizing the central importance of class power, understood as partisan linkages between unions and center-left ruling parties. Because of this, the PRA is better suited for an analysis of how power relations between classes affect social policy.

However, in focusing almost exclusively on partisan ties, the PRA has paid little to no attention to two central aspects of class relations in current neoliberal society. The first aspect refers to business power. Business power is largely understudied in PRA scholarly work, even though it has become a crucial factor of neoliberal political economy. Neoliberal capitalism is defined, as Baccaro and Howell (2017) rightly state, by a shift in the balance of power from labor to capital. This im-

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plies that the study of social policy and class relations must consider the role of employers and how it affects policies and labor power itself. Something similar occurs with the second aspect that is unattended by traditional PRA research; namely, those forms of power that do not derive from partisan ties—for example, those expressed in the notion of associational power. In a period during which neoliberal ideology has permeated center-left parties and union-party ties have weakened (Gumbrell-McCormick and Hyman 2013), nonpartisan power resources have become crucial for workers to advance their interests (Bank Muñoz 2017). Therefore, an analysis of the policymaking process must include these other types of power and examine how they interact with partisan linkages. This book responds to the challenge by proposing a relational model of class power that emphasizes the central importance of associational power and extends it to analyze workers' and employers' collective power. Thus, this model helps me develop a relational analysis of power, which in turn enables me to show how the mutually conditioning relationship between worker power and capitalist power operates.

The final section of this chapter presents an outline of the book. Before doing so, the next section introduces the data and methods used in this research.

### Methodology

The research presented is a case study in which the “unit” (Gerring 2004) of analysis, labor reform in Chile, is used to understand larger processes that go beyond the unit itself. More specifically, the in-depth study of Chile is used to understand how, in neoliberal society, power imbalances between classes help to explain labor reform outcomes and how associational power plays a key role in that process. As stated above, the case of Chile is relevant because of recent events such as the rise of anti-neoliberal protests beginning in 2011, the election of the NM coalition led by President Bachelet in 2013, and, especially, the eventual failure of Bachelet's attempts to reform the labor law in 2016. These events fit well with a “deviant case” research design. This type of design aims to explain “surprising outcomes” by illuminating causal processes through explanations that, as long as they apply to other cases, are meant to improve existing accounts (Seawright and Gerring 2008, 302). I conceive the Bachelet labor reform as an “exception” in the sense that it is at odds with the patterns identified in existing theoretical models (Ermakoff 2014). According to standard explanations, the combination of factors, including linkages between the CUT and government par-

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ties, the center-left partisan majority in Congress, the weakness of right-wing parties, and the absence of several authoritarian legacies that had previously reduced the possibility for progressive reforms, should have resulted in a successful reform process—or, at least, in a process *more* successful than those of the early 1990s and 2000s. However, this did not occur. The in-depth study of labor policy reform between 1990 and 2016 included in this book clearly illuminates the processes that explain why this is so. The proposed relational model of class power allows me to explain why, despite favorable conditions for reform in the mid-2010s, the central aspects of the 1979 legislation proved resistant to change, just as in previous reform attempts in the 1990s and 2000s. This is achieved by examining both the reform processes themselves and how workers and employers have organized to develop—with varying degrees of success—associational power.

While focusing on Chile, I also examine the cases of Argentina and Uruguay. As noted above, these countries contrast with Chile in that they represent successful cases of prolabor reform. Therefore, the examination of these experiences strengthens my explanation by better identifying how the factors emphasized in the proposed model play out. First, this comparative analysis allows me to study how workers' demand for protective labor policy materialized into reform projects that successfully passed the legislature. Second, it shows how variations in the types of party-union linkages help to explain reform outcomes. I pay special attention to how partisan linkages increased labor's ability to influence the legislative process and to why party-union ties did not undermine labor's associational power in either of these countries—at least not to the extent as occurs in Chile. Finally, the analysis of Argentina and Uruguay also enables me to identify how variations in business's capacity to oppose reform are also an important factor. I explain not only why Argentine and Uruguayan employers failed to mobilize associational power but also how this resulted in their inability to advance their interests. In short, this comparative analysis enables me to better identify the mechanisms and processes through which variations in the balance of power between workers and employers account for differences in reform outcomes.

Most of the data used in this research was obtained over the course of one year of fieldwork in Santiago, Chile, conducted between January and December 2015. During the fieldwork, I performed fifty-six semi-structured interviews with key informants. I interviewed fifteen people representing the business sector (thirteen businesspeople and two staff members of business associations, including a former president of the

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CPC). I interviewed businesspeople representing the construction, mining, agriculture, manufacturing, retail and commerce, and telecommunications sectors. Ten interviewees were CEOs, executive directors, or top-level managers of big corporations or firms, most of which had operations abroad or were export-oriented firms. Two interviewees were owners of medium-sized, domestically oriented manufacturing enterprises. One interviewee was a full-time CPC staff member who did not have any executive directorship roles in private firms.

In addition to employers, I interviewed thirty-three union leaders, including both subjects affiliated with the CUT (including two former CUT presidents) and subjects affiliated with the other national confederations (Central Autónoma de Trabajadores [CAT] and Unión Nacional de Trabajadores [UNT]). I purposely sought the most heterogenous sample possible in terms of labor leaders' partisan affiliations and the economic sectors they represent. In this way, I interviewed Christian Democratic, Socialist, and Communist leaders as well as union leaders from other smaller left-wing parties and some with no party affiliation. Likewise, the sample included union members from the public and private sectors and from economic industries such as manufacturing, chemical production, commerce, retail, transportation, agriculture, mining, healthcare, education, and other social services. Finally, in my 2015 fieldwork I was also able to interview eight state actors as well as experts in labor law and industrial relations, including two former Chilean ministers of labor and an International Labour Organization (ILO) representative. This evidence was supplemented by follow-up interviews with three experts included in the original sample. The interviews were conducted in 2018—that is, a year after the new labor law (Law 20,940) came into effect—and allowed me to better understand the implications of the legislative proposals that had been discussed and subsequently passed between 2015 and 2016. In addition, to develop the comparative analysis, I interviewed ten key informants from Argentina and three from Uruguay between 2018 and 2022. Most of the informants were union leaders and labor experts, although in Argentina I also interviewed two staff members of business associations and four businesspeople representing large businesses. Thus, a total of seventy-three interviews were carried out as part of this research project.

In addition to the interviews, during my 2015 fieldwork I collected extensive archival material. This included national newspapers, government documents, and bulletins from the CUT, the CPC, and other actors involved in the reform process. Although my focus was on the 1990–2016 period, I also gathered information relative to the 1973–

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1990 period. I did so to obtain historical data on the debates that resulted in the enactment of the Labor Plan and the reactions to its passage from both workers and employers. This historic data also provided evidence regarding the processes that took place within organized labor and business associations that resulted in the revival of the CPC in the early 1980s and established the foundation of the CUT in 1988. The material collected on the Labor Plan, unions, and business associations came from the archives of national magazine and newspaper clippings (*El Mercurio*, *La Tercera*, *La Nación*, *Diario La Época*, *Revista Hoy*, *Qué Pasa*, *Fortín Mapocho*), business-oriented magazines and business associations' institutional reports (*Revista Capital*, *Diario Financiero*, *Anuarios ENADE*, *Anuarios CPC*, *Anuarios SOFOFA*), and newspapers ideologically closer to the labor movement (particularly *El Siglo* and CUT's *Boletines Informativos*). Most of the 1973–1999 magazine and newspaper clippings were obtained from the Archives Office of Chile's National Ex-Congress Building (Oficina de Archivos del Ex Congreso Nacional). The remaining information was obtained from the National Archive of Chile ("Archivo Nacional de Chile") and the websites of national newspapers.

Finally, during my 2015 fieldwork I attended forums and seminars at which government officials presented the labor reform project. I also attended meetings and mass demonstrations organized by different sectors of the labor movement in response to the government's proposed reforms. In total, I spent approximately one hundred hours immersed in unobtrusive observation.

When analyzing labor policy reform, I focused mostly (but not exclusively) on what scholars define as "collective labor law." The literature on labor policy distinguishes between individual employment laws and collective labor laws in order to differentiate between provisions on individual workers' rights (e.g., working conditions, contract termination, severance pay, leave policies, and the like) and the regulations governing the collective action of labor organizations—that is, the organization of labor unions, the rules regarding collective bargaining and strikes, standards for dialogue between employers and workers, and so forth (Botero et al. 2004; Murillo 2005; Carnes 2014). The literature has shown that these two areas of legislation are interrelated but may sometimes reflect different tendencies. Some reforms may flexibilize individual labor law while at the same time retain controls over collective labor law, or vice versa (Cook 2007, 39). As argued at the beginning of this chapter, the 1979 Labor Plan was a syndical plan, the central aspects of which were largely untouched by the reforms implemented in the 1990s and 2000s.

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This explains why, unlike previous reform attempts, the Bachelet bill focused almost exclusively on reforming collective labor legislation. Taking into account the puzzling failure of the Bachelet labor reform, and in line with those who argue that the protection of workers' collective rights continues to be a pending task in Chile (Rojas 2017), in this book I decided to center attention on collective labor law. Nevertheless, in my description of the reform processes I make reference to some provisions protecting individual labor rights—for example, those regarding contract termination—as these provisions were subject to significant debate during the reform process.

### **Outline of the Book**

In the following chapters, I present the argument developed throughout this chapter in detail. Chapter 1 lays out the relational model of class power and a description of how associational power interacts with the other forms of power included in the model (structural, political-institutional, and societal power) by enhancing their impact. This chapter also provides an operational definition of associational power. It states that analyzing associational power requires studying how class-based associations manage to fulfill four tasks: (1) recruiting membership and promoting rank-and-file participation; (2) developing strategic capacity; (3) forging class-wide solidarity, cohesion, and strategic consensus; and (4) producing sustainable and efficient organizational structures.

Chapter 2 analyzes the initial attempts to reform the 1979 Labor Plan carried out by the Concertación administrations between 1990 and 2001. This chapter demonstrates that employers' strong collective power, manifested through the CPC's successful mobilization against the reform initiatives, was crucial for ensuring the persistence of the 1979 legislation. The evidence also enables me to show that employer power was reinforced by political-institutional resources that facilitated business influence over the policymaking process (e.g., linkages with right-wing parties that had veto powers as a result of several authoritarian legacies). While the importance of these political-institutional factors has been emphasized in prior research, I argue that they played a significant role only because capitalist associational power was already strong.

Chapter 3 explains the failure of the Bachelet labor reform of 2015–2016 by stressing how the disparity between worker associational power and employer associational power defined each class's capacity to influence the legislative process. I demonstrate that business associations successfully influenced the policymaking process in spite of the fact that

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most of the political and institutional factors that reinforced business power in previous decades had been watered down or no longer existed. In this regard, the chapter compares the role played by the CUT with the role of the CPC, pointing out how the latter succeeded in safeguarding business unity and in forging consensus regarding the strategies and tactics needed to oppose the reform bill. In doing so, the chapter shows how, in contrast to the CPC, the CUT's inability to construct associational power resulted in its incapacity to influence the legislative process, even though it had linkages with parties in office and unions' capacity to disrupt production was stronger than in the past.

In chapters 4 and 5, I switch the focus from labor reform to associational power. Chapter 4 focuses on the CUT and explains why, despite the recent resurgence of labor activism in Chile, worker associational power continues to be weak at the national level. The chapter argues that weak associational power is a result of the interaction between the constraints derived from the 1979 labor legislation and the CUT's own organizational structure. This organizational structure is based on what I call a "partisan-political" mode of organization, which is built on party-permeated and weak democratic decision-making processes and structures. Chapter 4 shows that although some aspects of this logic have diminished due to the weakening of overall party-union linkages, it has had lasting effects on labor power. This mode of organization has reinforced the atomizing effects of the 1979 legislation by undercutting the CUT's capacity to fulfill the different tasks involved in the construction of associational power—for example, recruiting members and promoting rank-and-file participation as well as forging class-wide solidarity and strategic consensus.

Chapter 5 explains capitalist associational power in Chile. In addition to emphasizing several factors stressed in recent research—for instance, governments' openness to integrate business associations into policymaking—this chapter emphasizes the importance of the CPC's internal organizing processes. More specifically, it analyzes the organizing work initiated by business activists in the mid-1970s and the role played by the CPC's organizational structure to explain why the CPC has been so successful in fulfilling the four tasks involved in the construction of associational power. The chapter shows how, during the transition to neoliberal economics, business activists revived the CPC as part of their efforts to unify employers' interests and strategies and how, by the late 1980s, this resulted in the development of a strategy to confront the center-left government based on the combination of tactical pragmatism and hard-line ideological orientations. Then, the chapter delves into

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the CPC's organizational structure to demonstrate how its sectoral and consensus-oriented mode of organization facilitates the construction of associational power through consensus-oriented decision-making bodies, a consensual electoral system, and a hierarchical and centralized structure of membership affiliation and interest representation.

Chapter 6 presents comparative evidence to reinforce the arguments developed in the previous chapters. Focusing on the cases of Argentina and Uruguay, I argue that, in these countries, prolabor reforms in the 2000s were more successful because the balance of power was more favorable for the working class. In Argentina and Uruguay, labor confederations were more successful at building associational power in the decade prior to the labor reforms. This enabled them to play a more active and influential role in the reform processes carried out by center-left governments throughout the 2000s. In contrast, in both countries, employers were unable to successfully build and mobilize associational power. This significantly undermined their capacity to influence the legislative processes and, more generally, their power to oppose the governments' reformist agenda. The evidence of Argentina and Uruguay reinforces, I argue, the implications of my in-depth case study of Chile presented in the previous chapters. For example, it demonstrates that partisan linkages are beneficial for labor—that is, they lead to more protective labor policy—not only when party-union linkages are strong but also when unions have the capacity to mobilize associational power independently from political parties. Similarly, the evidence reinforces the importance of extending the concept of associational power in order to analyze capitalist collective action and power. This extension of the concept enables me to show how, in both Argentina and Uruguay, employers' weak associational power allowed the reformist governments to carry out legislative reforms without having to face significant opposition from organized business.

Based on these findings, the concluding chapter lays out the empirical and theoretical implications of this book. After presenting its overall contribution to the literature on labor reform, I show how this argument contributes to the most recent debates on associational power and power resources. This is followed by an explanation of how the analysis engages the recent debate on business power and, particularly, the debate around the concept of “instrumental power” (Fairfield 2015a). Finally, in this concluding chapter I also reflect on how the arguments developed throughout this book can help to better understand Chile's Social Uprising of 2019 and its political consequences—for example, the rise of the anti-neoliberal left in the country. While acknowledging that it is still



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early to fully understand the implications of these events, I reflect on the conditions under which this new political context can improve unions' power to contest neoliberalism.