

Can Social Dialogue be Transformational in a Socially Polarised Brazil? Labour Relations under the Third Lula Administration

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ABSTRACT

Faced with a heterogeneous governing coalition and an unstable geopolitical scenario, the new Lula government is confronting many challenges to successfully enacting the social, economic and political reforms it promised during the 2022 presidential campaign. On the labour front, the current government has already made strides in rolling back some of the most regressive policies implemented during the Temer and Bolsonaro administrations that negated the possibility of real minimum wage increases and hobbled labour inspectors combatting modern-day slave labour. However, due to conflicting class interests, it will be more difficult to revoke key elements of the regressive 2017 labour law reform, which introduced new forms of precarious contracting, restricted access to the labour justice system, and curtailed union financing. This article will present a balance to date of the tripartite efforts to build and enact a pro-worker labour relations reform. We argue that the employers' group's path-dependent expectations to maintain many aspects of the previous labour law reform, together with labour's diffuse support in the legislative branch, makes a more thorough-going reform that is advantageous for workers less likely to be implemented in the current conjuncture.

KEYWORDS

labour relations, labour law reform, unionism, corporatism, Brazil

Introduction

The Workers' Party (PT) candidate Luiz Inacio Lula da Silva was inaugurated as president of Brazil for the third time on 1 January, 2023, following a closely disputed election against the far-right incumbent, Jair Bolsonaro. Lula is now facing many challenges as he tries to consolidate an ideologically heterogeneous governing coalition, restore political institutionality, and rebuild the social infrastructure gutted by his neo-authoritarian predecessor. At the same time, he is confronting fiscal constraints and a volatile political conjuncture on the domestic and international fronts, with an extremely polarised electorate, as demonstrated by polls registering that only 21% of voters identify as centrist (Gielow, 2023). With regard to labour relations, Lula ran on a platform to reverse some of the worst elements of the regressive 2017 labour law reform (Vamos Juntos Pelo Brasil, 2022: 4), which introduced new forms of precarious contracting, restricted access to

the labour justice system, gave legal priority to the individual employment contracts of high-income non-management workers over collective agreements, and dramatically curtailed union financing.

With the passing of the 2017 anti-worker reform, the Brazilian union movement suffered a dramatic loss of associational, societal and structural power, as understood by the power resources theory, as elaborated by Schmalz (2017) and Fichter et al. (2018: 4). This loss of union capacity can be shown quantitatively through declining union density, the shrinking of the “union caucus” within the Brazilian Congress, and the hollowing-out of collective bargaining processes. Lula’s re-election has created a new political opportunity to undo some of the most anti-worker and anti-union elements of the labour law reform, and also to codify minimum levels of labour rights for the growing ranks of precariously-contracted platform workers in Brazil. To this end, we will analyse some of the nascent proposals to reconfigure labour relations under the new Lula government, and attempt to gauge their political, legal and economic feasibility.

On the positive side, the current government has made strides in rolling back some of the most regressive policies implemented during the Temer and Bolsonaro administrations, that negated the possibilities of real minimum wage increases and hobbled labour inspectors from exposing employers benefitting from modern day slavery. However, we will attempt to show that it will be more difficult to reverse key elements of the regressive 2017 labour law reform, especially those which undermine union rights, as these issues strike closer to the heart of the interests of national and international capital. This article will present a preliminary balance of the tripartite efforts led by the Labour Ministry during the first year of Lula’s current mandate to build and implement a consensus position regarding the restructuring of labour relations, as well as a review of the multipartite process to regulate labour relations and conditions for platform workers. We argue that the path-dependent expectations of the employers’ group to maintain many of the neo-liberal elements of the previous labour law reform, together with labour’s diffuse support in the legislative branch create significant obstacles that are likely to impede the final ratification of more thorough-going, pro-worker reforms.

The methodology for this article included a review of qualitative and quantitative data from secondary sources, including internal union communications, relevant academic literature on labour relations and Brazilian political economy, the Brazilian mass media, and databases from the Brazilian Labour and Employment Ministry (MTE). This information has been supplemented with inputs from six semi-structured, in-depth interviews with key actors, conducted between September 2021 and March 2024. In addition, the authors have incorporated direct participant observation at diverse union activities involving the principal national union centrals, including the Central Única dos Trabalhadores (CUT), União Geral dos Trabalhadores (UGT), and the Força Sindical, in Sao Paulo and Brasilia as well as virtually, from October 2021 to October 2023.

The first section of this article will provide a short historical and theoretical overview of labour relations in Brazil, followed by a more in-depth analysis of the specific provisions of the 2017 labour law reform and their concrete impacts on workers and unions. Subsequently, we will address the public policies that were formulated (and in some cases, implemented) during the first year of the third Lula administration, offering some initial conclusions on the possibilities for pro-worker advances during the remaining three years of Lula’s term.

A Historical Overview of Labour Relations in Brazil – Corporatist Legacies, Truncated Transformations

Before the 2017 labour law reform, labour relations in Brazil typically had been characterised as state corporatist, with employers and workers grouped in class-based organisations, structured and

regulated by the state. As per the classic analysis of Collier and Collier (2002: 172), the initial political incorporation of the Brazilian working class took place as part of the state-building project that was initiated by the *Estado Novo* regime led by Getúlio Vargas. The authors classified this process of creating nascent labour citizenship in Brazil as subordinated “State incorporation.” Specifically, Vargas outlawed the vestiges of the old radical labour movement, building a new order based on the following corporatist principles: 1) exclusive monopoly representation, with only one union being permitted to represent all the workers of a professional category for a given geographical area, known as *unicidade*; and 2) avoidance and suppression of class conflict (Noronha, 2000; Gacek, 1994). The Brazilian corporatist model was distinct from its Italian or Portuguese counterparts, as it incorporated the particular characteristics of late-developing capitalism, as theorised by Mello (1975), which created a heterogeneous labour force, with a narrow majority in the higher-productivity, concentrated formal labour market, and a large minority in the low-productivity, diffuse informal sector.

As part of the corporatist model, an extensive labour justice system was established for the purpose of adjudicating both individual and collective issues according to the Consolidação dos Leis de Trabalho (CLT), with the regional labour courts and the Tribunal Superior do Trabalho (TST) having the power to issue *dissídios coletivos*, not unlike interest arbitration awards, in the case of collective bargaining disputes. Such decisions are legally binding, and unions are barred from continuing strike action once they are issued. As a matter of fact, the entire labour justice system was designed to preclude work stoppages, and the law’s requirements made it exceedingly difficult for the unions to convene licit strikes (Gacek, 1994).

During Brazil’s military dictatorship (1964 to 1985), the authorities, including the labour judiciary, employed provisions of the CLT to essentially dictate the economic terms of many collective agreements, even if the wage adjustments failed to keep pace with the real cost of living for Brazilian workers. Moreover, the CLT empowered the labour ministry to directly intervene in unions, trustee them, and remove their leadership, if they were acting out of line with the political and economic dictates of the government.

In the late 1970s, Brazilian workers captured the world’s attention by mobilising massive strikes in the metal and automotive industry of the Greater ABC Region, under the charismatic leadership of São Bernardo Metalworkers Union president Luiz Inácio Lula da Silva (Gacek, 1994). These metalworkers defied the strictures of the corporatist labour justice system and directly confronted the multinational automakers, through the mobilisation of workplace-based factory commissions to negotiate substantial wage gains. Over the next two decades, the *novo sindicalismo* [new union] movement enabled three very noteworthy developments: 1) the creation of what would later become Latin America’s largest trade union centre, the CUT (*Central Única dos Trabalhadores*); 2) the founding of the PT (*Partido dos Trabalhadores*), a new left labour party, with organic links to the *novo sindicalismo* movement; and 3) the emergence of a democratic mass movement of workers which was essentially non-corporatist, if not anti-corporatist, aspiring to a model of labour relations based on genuine freedom of association, authentic collective bargaining, and an actual right to strike (De Almeida, 2011: 108-110).

The next challenge to the corporatist labour relations order was posed at the extraordinary constitutional assembly convened by the Brazilian Congress in 1987. Although the 1988 Federal Constitution (CF) removed some of the more repressive aspects of the corporatist labour relations order in response to the demands for a more democratic and autonomous regime, most of the system remained intact. For example, Section 2 of Article 8 preserves the CLT principle of *unicidade* (Presidência da República, 1988). Moreover, the new constitution maintained that the state could continue to levy a mandatory tax on all formal sector workers, equivalent to one day’s salary,

commonly known as the *imposto sindical*, whose revenue was distributed to the unions as well as to the MTE) and the financing of a workers' protection fund known as the *Fundo de Amparo do Trabalhador* (FAT). Moreover, the 1988 CF did little to alter the former collective bargaining system, including the disproportionate power of the labour justice system to determine the substantive results of the process. Although the CF guaranteed public sector civil servants the unprecedented right to form unions and strike (Araujo, 2023), it was silent about their collective bargaining rights.

Few significant changes to Brazil's corporatist labour relations order defined by the CLT and the 1988 CF, took place during the presidential administrations of José Sarney (1985 to 1990), Fernando Collor de Mello (1990 to 1992), Itamar Franco (1992 to 1994), and Fernando Henrique Cardoso (1995 to 2002). However, once Luiz Inácio Lula da Silva was elected in 2002, there were high expectations that social dialogue processes would be created in order to craft a reform of the corporatist regime in conformity with the aspirations of the new unionism movement.

In 2003, during the first Lula administration (2003 to 2007), the labour ministry convened the Forum Nacional do Trabalho (FNT), with the tripartite participation of labour unions, employers and the government, for the purpose of reforming the corporatist labour relations order. Consensus was reached in the forum concerning a proposal to phase out the *imposto sindical*, replacing it with a system of fees based on minimal thresholds of actual rank and file authorisation of union representation and voluntary membership, not unlike union security provisions in the USA.¹ Moreover, the concept of *unicidade* would be invalidated, thus allowing for the creation of more than one union representing any particular group of workers in a defined geographic area (Silverman, 2014: 92), and there would be a new system of more independent collective bargaining, requiring the agreement of both parties prior to judicial intervention and the initiation of the *dissídio* process. The consensus developed in the FNT served as the basis for a constitutional proposal (PEC) to amend Article 8 of the FC, presented to the Brazilian Congress by the Lula government in 2005. However, this PEC was never even put to a vote by the plenary of the senate, due in large part to the political resistance of the more pro-corporatist leadership in the labour movement who did not want to lose their benefits from a monopoly representation system financed by the state, and without the requirement for democratic authorization (Ladosky and Rodrigues, 2018).

In the face of this policy failure, the government took it upon itself to enact a highly truncated reform, in order to satisfy its union constituents. For example, in 2010, the last year of the second Lula administration, the Conselho de Relações de Trabalho was established as a permanent space for social dialogue on labour relations norms (Ladosky and Rodrigues, 2018: 64). Likewise, in 2008, also during the second Lula administration, the national trade union centrals were granted official and legal recognition. The centrals were guaranteed a ten per cent share of the proceeds of the trade union tax, if they could demonstrate they had reached a seven per cent threshold of worker representation nationwide (Silverman, 2014: 94). Although a principal goal of the *novo sindicalismo* four decades ago was the construction of a single, intersectoral national union central body, the 2008 recognition law ironically gave a financial incentive to launch new and multiple centrals, which

¹ The National Labor Relations Act (NLRA) of the United States permits the negotiation of clauses in collective agreements enabling the obligatory payment of union dues by workers covered by such agreements. Such clauses are known as union security provisions. These clauses stipulate that newly employed workers are obligated to join the labor union within thirty days, as a condition of their employment. Union security only applies in those bargaining units (i.e. enterprises or sections of enterprises) where unions have been established as the exclusive bargaining representative by majority authorization. In the event that the newly employed workers exercise their right not to become union members they are still required to pay a fee equivalent to union dues to help underwrite the costs of the collective representation and benefits they enjoy. See *NLRB v. Gen. Motors Corp.*, 373 U.S. 734, 743-44 (1963). In 1988, the US Supreme Court held that when a union security clause is negotiated in a collective agreement, a union can collect from nonmembers only those dues and fees necessary to perform its duties as a collective bargaining representative. See *Comm. Workers of Am. v. Beck*, 487 U.S. 735, 752-53 (1988).

is exactly what happened, with the creation of the Central dos Sindicatos Brasileiros (CSB) in 2006 and Central dos Trabalhadores e Trabalhadoras do Brasil (CTB) in 2007 in anticipation of the new policy.

Despite the incapacity of the Lula and Rousseff governments to modify the principal aspects of the Brazilian corporatist order, there were major advances for Brazilian workers on an individual level. Both PT administrations implemented policies and practices to raise workers' real incomes, which included transitioning 30 million workers from the informal sector to formal sector employment (Silverman and Macdonald, 2023: 59). Extreme poverty fell from 24 percent in 2002 to 6.6 percent in 2014. Brazilian workers increased their purchasing power through real increases in the minimum wage and the collective bargaining process, including through the mediation of the labour justice system, and the working poor benefitted from expanded cash transfer policies. There were also significant reductions in child and forced labour, thanks to creative and robust public policies and investments in labour inspection and enforcement.

The Undermining of the Corporatist Consensus during the Temer and Bolsonaro Administrations

Despite these impressive achievements, by 2014, an inauspicious mix of economic recession and large-scale disenchantment with traditional political institutions and forms of political representation, coupled with festering social and economic inequalities, created an opportunity for the united interests of the hegemonic, finance-capital-led ruling class to reconfigure Brazilian labour relations systems to its liking, with little effective resistance from organised workers (Silverman and Elicabide, 2023: 28). As we will examine in more detail below, under this new model, as postulated by Colombi, Lemos and Krein (2018), unions have struggled to maintain their legitimacy and autonomous capacity for action, with the labour law reform pushing them to act instead as mediators between employers' needs to enhance their corporate competitiveness and workers' needs to maintain their living standards.

We postulate that the breakdown of the corporatist consensus, driven by a more radically neoliberal and anti-labour union agenda, has been essentially functional in nature, without modifying the structural hierarchy of local-level unions, state and regional level federations, and national confederations, or the governing principle of *unicidade*. What was undermined during the Temer and Bolsonaro years was the earlier consensus that workers' union structures should have a regular income stream guaranteed by the law, as well as a cornerstone principle of the collective bargaining system that collective agreements should never provide less than the worker protections guaranteed by legislation, nor should individual contracts or collective accords with single employers ever be inferior to the sectorial conventions (*convenções*).

In less than four months in 2017, the Temer government (2016 to 2018) and the Brazilian Congress pushed through the most thorough-going anti-worker and anti-union reform of the CLT in Brazilian history. The new law terminated the obligatory trade union tax. With the invalidation at the time by the judiciary of the application of the *contribuição assistencial* (union assistance contribution) to non-members covered by a collective agreement, there was a vertiginous 97.5 per cent drop in trade union budgets from 2017 to 2021, according to data from the labour ministry (CNI, 2022). Brazil had become, using the US terminology, a kind of "right to work" – or, as unions depict it colloquially, a "right to work for less" – regime.

As mentioned above, the 2017 CLT reform (Law 13.467) inverts and perverts the collective bargaining system by giving legal priority and precedence to contracts with individual skilled workers in higher salary brackets (*bipersuficientes*) and collective agreements with individual

employers (*acordos*), over the sectorial collective agreements involving multiple employers of the same professional category and economic activity in a given geographical area (*convenções*) – even if such agreements are inferior in terms of wages, benefits and working conditions. The reform also permits bargaining below legislated minimum standards in many instances, stipulating that the “negotiated prevails over the legislated”. Moreover, the 2017 reform exempts mass layoffs from collective bargaining obligations and permits the expansion of intermittent (zero-hour) contracts. It also provides that “self-employed” autonomous workers are never to be considered directly employed, and, therefore, cannot receive the formal legal protections of regular employees, even when their contract is exclusively with one employer. Likewise, the reform eliminates the formerly obligatory role that unions had in the oversight of severance payments for workers who have been terminated without just cause. In addition, it creates the possibility for medium and large enterprises to create labour-management committees that do not necessarily include union representatives, and with the legal right to negotiate specific issues related to labour conditions (Silverman and Elicabide, 2023: 28). Finally, according to separate legislation passed in 2017, all functions of any organisation may now be outsourced, potentially gutting the established collective bargaining structures (Pinheiro Rocha and Moreira Gomes, 2017).

Shortly after Jair Bolsonaro was inaugurated to the Brazilian presidency in January of 2019, the attacks on organised labour intensified. Bolsonaro enacted an executive order which suspended dues deductions for voluntary union members for several months, further draining trade union budgets, and implemented a system of labour contracting for young workers with fewer protections and reduced coverage by the national social security system (PT, 2020). The Bolsonaro government also issued provisions permitting employers to unilaterally alter working hours and labour protections during the Covid-19 pandemic. Bolsonaro unsuccessfully called for an end to the labour justice system, which could not be implemented without a constitutional amendment, but he managed to unilaterally dissolve the MTE during his first day in office. He reversed his decision two and a half years later, due to public and congressional pressure (Agencia Senado, 2021).

Despite the assertions of industry representatives and neo-liberal economists that the so-called “modernisation” of the CLT would create more and better jobs for Brazilian workers, the reality has proven to be far different (Filgueiras, 2019: 17-18). Trapped in the throes of a far-ranging economic and political crisis for the past decade, the Brazilian working class has witnessed the formal-sector labour market collapse, real salaries diminish, and labour protections vanish. The health crisis which erupted in early 2020 with the outbreak of the Covid-19 pandemic amplified the negative impacts of the labour reform even further, by suspending earlier norms regulating large-scale layoffs, and diminishing the capacity of unions to mobilise in favour of labour rights.

On the macroeconomic level, labour economists Leone, Teixeira and Baltar (2021: 79-80) have shown that, during the first three years after the implementation of the 2017 reform, the measures taken under that law to supposedly “unlock” the capacity of the deregulated market to spur job creation have not led to higher levels of investments or employment. As shown in Table 1 below, GDP growth stagnated and then fell dramatically before and during the pandemic, with no amount of labour flexibilisation being able to overcome the generalised weak performance of the economy and an unfavorable exchange rate, as also expressed by the data on GDP per capita. Unemployment only marginally decreased in the two years after the enactment of the labour law reform, and before the pandemic shock negatively affected real indicators for workers.

Table 1: GDP growth and unemployment rates in Brazil, 2017-2021

Year	% GDP growth	Gdp per capita (in US\$)	Unemployment (% of economically active population)
2017	1.3	9 896.7	12.9
2018	1.8	9 121.1	12.5
2019	1.2	8 845.3	12.1
2020	-3.9	6 794.5	13.9
2021	4.6	7 507.2	13.3

Source: Compiled by authors with data from the World Bank

As indicated earlier, the labour law reform also produced egregious impacts on the collective labour rights of the Brazilian working class, significantly weakening the institutional, political and administrative capacity of unions to advocate for better conditions of the workers they represent. We can classify the distinct facets of union capacity in accordance with the union power resources theory, as enunciated by Schmalz (2017). He characterises structural power as that which is linked to the capacity of unions to objectively put economic pressure on employers, associative power as that which emanates from the representativity and vitality of rank-and-file union structures, institutional power as that which allows for effective union participation in institutional spaces, and social power linked to the capacity of unions to influence social discourse and build coalitions with other social movements (Schmalz, 2017: 22).

One measure of how the weakened structural power of unions has negatively influenced individual labour rights is the percentage of yearly collective agreements negotiated to include real wage gains. As Table 2 illustrates, the capacity of the Brazilian labour movement to negotiate cost of living increases was significantly impaired by 2019, when unions no longer received any residual income from the formerly mandatory union tax. The structural power of Brazilian unions decreased even further with the onset of the pandemic in 2020, which spurred economic recession, growing inflation, and high unemployment (DIEESE, 2021). The generalised situation of economic malaise coupled with a lack of trustworthy governmental interlocutors, the restrictions on union financing and the inability of unions to mobilise collectively in the traditional sense due to social distancing measures, led to an unprecedented collapse in union bargaining power, with real wage losses enshrined in close to half of the collective agreements negotiated in 2021.

Table 2: Salary increases negotiated by Brazilian unions, 2017-2021 (as a percentage of all collective agreements negotiated in that year)

	2017	2018	2019	2020	2021
Above inflation	63,3	68,4	50,0	38,5	15,8
Equal to inflation	28,6	24,5	26,1	34,3	36,6
Below inflation	8,1	7,2	23,9	27,2	47,7

Source: Compiled by authors, with data from DIEESE.

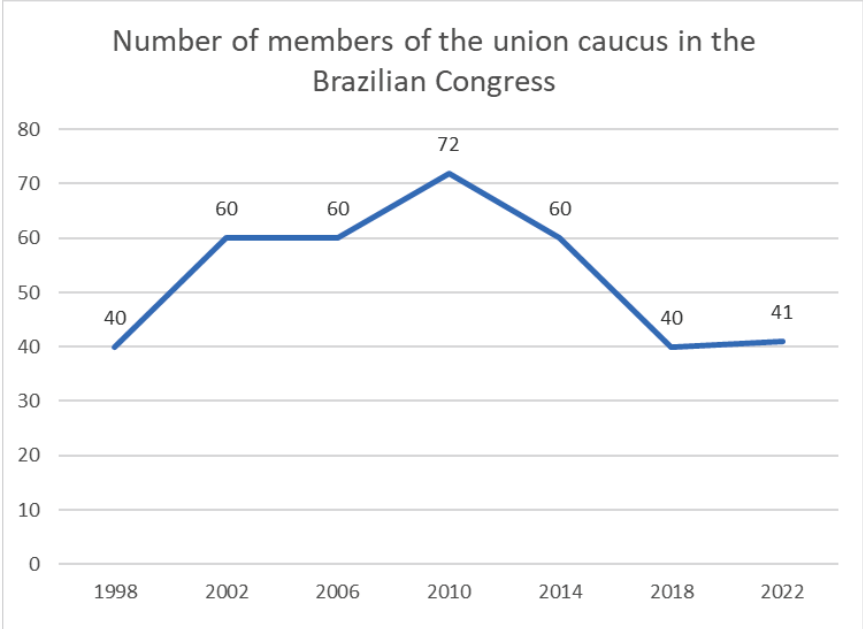
The associational power of unions can be quantified by looking at union density, which, in the case of Brazil, measures the number of workers actively engaged in their union organisations, but not necessarily the number of workers effectively protected by collective bargaining agreements. Unlike the USA and Canada, for example, in Brazil the right to legal representation of workers for collective bargaining purposes does not depend on a minimum density or majority authorisation. Nonetheless, falling union density in Brazil does weaken the capacity of worker mobilisation.

Using such a variable, we can clearly observe a stark decline in the power of Brazilian unions after the implementation of the 2017 labour law reform. According to statistics from the *Instituto*

Brasileiro de Geografia e Estatística (IBGE, 2020), union density dropped from 16.1 per cent of workers in 2012, at the height of the social and economic successes of the first Rousseff administration, to 14.4 per cent in 2017 when the labour law reform was enacted, to 12.5 per cent in 2018, and then dropping to 11.2 per cent in 2019. Due to both deindustrialisation and an increase in outsourcing and anti-union practices under the Temer and Bolsonaro administrations, unionisation rates in the manufacturing sector plummeted, from 21.1 per cent in 2012 to 13.2 per cent in 2019. At the same time, union density in the organising-averse sectors of retail, hospitality, and construction stagnated further, declining from 10.5 per cent, 7.7 per cent and 8.9 per cent, respectively, in 2012, to 7.4 per cent, 5.6 per cent, and 4.2 per cent in 2019.

As the associational and structural power of Brazilian unions declined drastically after the implementation of the 2017 labour law reform, their societal power, as understood as the capacity of unions to win broader support beyond their direct membership for their political projects (Schmalz, 2017: 33), also deteriorated. This can be measured (in part) by the number of federal parliamentarians of trade union origin elected to office. As shown in Graph 1 below, the size of the “union caucus” in the Brazilian Congress shrank substantially and continuously during the second decade of the 21st century, from a high of seventy-two members of congress elected in 2010, to a low of forty in the 2018 elections, coinciding with the rise of the electoral far-right, as expressed most notably by the election of neo-authoritarian Jair Bolsonaro to the presidency that year. In the 2022 elections, the size of the union caucus stabilised, instead of falling further. However, this result possibly could be attributed to a snowball effect linked to the Lula candidacy, with unionist candidates indirectly receiving a fraction of Lula’s popularity during the campaign, as well as to the impacts of the more efficient policies implemented by the Federal Electoral Tribunal to combat fake news propagated in large part by far-right candidates against more left-wing candidates², rather than a real increase in the positive public perception of the labour movement.

Graph 1: Number of members of the union caucus in the Brazilian Congress (including lower and upper houses)



Source: Compiled by the authors, with information from DIAP (2022)

² See <https://g1.globo.com/jornal-nacional/noticia/2022/03/21/tse-amplia-medidas-de-combate-as-fake-news-durante-as-eleicoes.ghtml>

Despite the loss of union power as demonstrated above, the labour movement was able to stave off other political attacks, effectively blocking the federal government from converting anti-worker and anti-union temporary executive orders (*Medidas Provisórias*, MP) into permanent legislation. For example, the union movement was successful in organising congressional and societal support against the permanent adoption of MP 873, signed by Bolsonaro in March 2019, which expressly prohibited dues deductions from unionised workers' pay checks. Similarly, the Bolsonaro administration's "mini-labour reform", as embodied in MP 1045, which further restricted access to the labour justice system for low-income workers and created a new form of precarious contracting for young workers, was rejected by the congress in September 2021, after substantial pressure by the labour movement (Rodrigues, 2021). Taking advantage of Bolsonaro's significant drop in popularity over the course of the first half of 2021, union leaders were able to successfully lobby against this anti-popular measure identified with Bolsonaro, and with the assistance of congressional leaders who were eager for re-election (FENAJ, 2021). In the words of the labour analyst Antonio Augusto de Queiroz,

After the labour law reform, unions were left without resources, and had to look inwards, cutting costs, firing staff, and selling offices, and without dialoguing with their rank-and-file. They lost their connections to public institutions and to the federal government, and for a while, had a very unclear strategy on how to improve their situation. Fortunately, some members of congress with a union background were very competent in conducting an advocacy strategy. So, they were able to take advantage of the grave errors being made by the Bolsonaro government, and they constructed political support in order to defeat anti-worker measures, even gaining the support of members of center-right, physiological parties (the "*Centrão*").³

Analysing Possibilities for Labour Reforms under the Current Lula Administration

As noted in the historical overview earlier in this article, the radically neo-liberal reforms made to the CLT during the Temer administration and followed by the executive orders and policies of the Bolsonaro regime, altered the functioning of the corporatist consensus of the previous eight decades, with particularly harmful consequences for Brazilian labour unions. Given his history of leadership in the Brazilian labour movement, President Lula comprehended that something had to be done to reverse the most pernicious anti-union and anti-labour aspects of the current legal order (Silverman and MacDonald, 2023: 61). The major obstacle to the enactment of any new progressive legislation, including a pro-worker labour law reform, is the current right-wing correlation of forces in the Brazilian Congress, as well as the extra-parliamentary far right that continues to galvanise societal support to further its objectives. Given the existing political polarisation, driven by the clientelism of the institutional right-wing and the fake news disseminated by the extra-institutional far right, any prospects of joint worker-employer lobbying efforts in favour of labour law reform proposals have been effectively stifled before they have even been attempted⁴.

By means of a presidential decree issued on 4 April, 2023, an inter-ministerial working group (GT) to initiate social dialogue on the future of Brazilian labour law and labour relations was created, under the leadership and coordination of the MTE, and with tripartite representation (Figuerola Junior, 2023). The largest trade union centrals (CUT, CGT, Força Sindical, CTB, UGT,

³ Interview with Antonio Augusto de Queiroz, former director of the *Departamento Intersindical de Assessoria Parlamentar* (DIAP), 15 December, 2021, via Zoom.

⁴ Interview with Clemente Ganz Lucio, coordinator of the Trade Union Centrals Bloc of the Tripartite Working Group (GT) on the Future of Brazilian Labor Relations, via Zoom, 15 February, 2024.

CSB and NCST) and the official national employer confederations representing all industries and sectors, including agriculture, industry, commerce, banking and finance, transportation, and tourism, were summoned to participate. The decree stipulated that the GT would develop a legislative proposal to be presented to the Brazilian Congress 90 days from the date of the decree – by July 3, 2023. The decree also permitted the working group to extend its work by another 90 days, if necessary - by October 1, 2023⁵.

The trade union centrals developed their own proposal in April of 2023 for submission to the GT (FETEEESC, 2023). With regard to the future of trade union financing, the Brazilian labour centrals were in total agreement with the recent pronouncements of the labour minister, Luiz Marinho, recognising the impossibility of reviving the old *imposto sindical* which had been rendered invalid by the 2017 CLT reform (Bernardes, 2023).

The labour movement's April 2023 proposal calls for the establishment of a *taxa negocial*, as mentioned earlier, a kind of agency fee that would be authorised by the majority vote of the workers convened in assemblies. The fee would be collected by means of automatic deductions from the pay of all workers enjoying the collective representation of their union, whether or not they were voluntary union members. Such authorisation by assembly would determine the sum of the contribution, and a definition of what portion of the proceeds would go to the local union as well as to the corresponding state federation, national confederation and trade union central. It was also understood that the employers would propose a similar pooling of resources from their side, to financially underwrite their own representative structure.

To address the perverse inversion of legal prevalence which the 2017 CLT reform enacted with respect to collective bargaining, the Brazilian trade union centrals proposed the legal enactment of the principle to guarantee “the prevalence of the most favorable provision to the workers”, in order to preclude the deleterious effects of bargaining to weaken workers' rights instead of strengthening them. Such a measure could be a much simpler way of avoiding the most destructive aspects of the 2017 reform in terms of collective bargaining, without the necessity of having to revoke everything in the current statutory language.

The Brazilian labour movement continues to hope that the creation of a genuine culture of collective bargaining, both *de jure* and *de facto*, will help neutralise the pernicious legal enablement of employers, thanks to the 2017 reforms, to execute mass layoffs and total outsourcing unilaterally (Mateus da Silva, 2017). Moreover, the proposal of the union centrals calls for explicit and stronger legal guarantees of good faith bargaining and protection against anti-union practices, employment stability for trade union leaders above and beyond the current legal minimum of seven elected union leaders, restoring the principle of *ultratividade*, or the maintenance of all the terms and conditions of the former collective agreement upon its termination and pending the ratification of a new agreement, and the power of the unions to invoke the intervention of the labour judiciary to issue a *dissídio coletivo* when the employer is failing to bargain in good faith.

The April 2023 proposal of the Brazilian centrals also called for the extension of complete collective bargaining rights for public employees; the restoration of prior union involvement in and agreement to the rescission of individual contracts and the negotiation of severance payments; and the establishment of a National Council of Labour Relations (with constituent chambers for employer and labour organisations), in order to resolve both individual and collective disputes through more advanced mediation, conciliation and arbitration, relieving the current overload and inevitable delay of the labour judiciary. The creation of constituent chambers for labour and employers is also designed for the purpose of self-regulation, on the part of both sides, to develop

⁵ Interview with Clemente Ganz Lucio, via telephone, 27 May, 2023

their own standards regarding representation and representative qualifications. It should be mentioned that, due to the long-standing divergences within the trade union bloc regarding union structures, unlike the previous FNT negotiations, a proposal to end *unicidade* was not included in the policy document presented by the Brazilian centrals in April 2023.

Since the GT failed to meet the 2023 deadlines set by executive decree to produce a proposal to the Brazilian Congress, its work has officially ended. The resistance on the part of the employer representatives of the GT to the national union centrals' key proposals, and especially with respect to trade union financing, made consensus impossible. The employer organisations asserted that the union centrals were seeking to implement a total counter-reform of the 2017 CLT, and that they were trying to restore the trade union tax by other means⁶.

Notwithstanding the implacable resistance on the part of the employer representatives in the GT, the Brazilian Supremo Tribunal Federal (STF) ultimately ratified, in part, the position of the union centrals on union financing in a final consolidated decision rendered by the court's full plenary on 12 September, 2023 (Poder 360, 2023). The STF justices certainly did not restore the old trade union tax, whose termination they had ruled, in 2018, to be in accordance with the constitution. However, they did find that collectively bargained *taxas assistenciais* approved in worker assemblies, and exacted from both union members and non-members, were now constitutional (reversing earlier positions), provided that a right to object is retained for the non-member (ANAMATRA, 2023). The STF clearly understood that if the unconstitutionality of assessing obligatory union assistance contributions from workers who are not union members were maintained, the Brazilian labour movement would remain in a vulnerable and unsustainable position. As the current STF chief justice, Luis Roberto Barroso, expressed it, "I would not like to drain completely the bargaining capacity of unions due to a lack of financing" (Gacek, 2024). This reversal in position by the STF restored a principle of the earlier corporatist consensus – namely, that labour unions should have a secure income stream in order to survive as social partners.

Regarding the union assistance contributions, the STF departed significantly from the position it had assumed in 2018 in sustaining the constitutionality of the 2017 labour law reform's elimination of the compulsory *imposto sindical* – namely, that any exaction of union dues from non-members required their express and prior approval.⁷ Nonetheless, it did concede to the principle of negative freedom of association by creating a right to object on the part of the non-member. In other words, the individual non-member could affirmatively express an objection to the payment of his or her contribution after it had been collectively bargained and authorised by workers in a democratic union assembly. The STF's most recent ruling fails to address the pending issue of how much of the proceeds of the union assistance contribution should be remitted to higher-level union structures – namely, the state and federal-level federations, confederations and centrals. It should be remembered that even though the obligatory proceeds of the *imposto sindical* were eliminated for the employer organisations, as well as worker unions, seven years ago, the employers' superior federative and confederative structures were supported by proceeds from the federal severance fund, thanks to executive measures enacted by the former president, Michel Temer. The employers were also able to tap into the resources of the *Sistema "S"*, the employment intermediation and apprenticeship regime, totally funded by payroll taxes and officially run by the employer confederations (CUT Brasil, 2018).

Given powerful resistance on the part of some in the Brazilian judiciary, as well as the right

⁶ Interview with Clemente Ganz Lucio, via Zoom, 15 February, 2024

⁷ Union assistance contributions and *taxas negociais* are totally distinct from the former *imposto sindical* since they are bargained collectively and approved in worker assemblies, as opposed to being automatically exacted from the workers according to the overhauled provisions of the CLT.

wing in the Brazilian Congress to any project which strengthens the labour movement, the Brazilian union centrals are now focusing on the implementation of the less controversial sections of the original GT proposal of April, 2023. In particular, it may still be politically feasible to create a bipartite National Council of Collective Bargaining (Conselho Nacional de Negociação Coletiva), as well as establish constituent chambers for labour and employers, known as Conselhos de Autoregulação (Councils of Self-Regulation). According to Clemente Ganz Lucio, coordinator of the trade union bloc in the GT,

The National Council of Collective Bargaining could be created by administrative edict and without the need for congressional approval. Similarly, the union centrals and employers could form their own Conselhos de Autoregulação without the need to pass a law. We can't keep waiting for the perfect moment to act, as it may never come!⁸

Despite the current impasses with regard to the proposals for reforms to the Brazilian labour relations system, the third Lula administration has been able to achieve some policy advances through legislative and executive initiatives. For example, President Lula has invoked his constitutional power of executive action by implementing additional reforms for labour's benefit, including, for example, a provisional measure which entered into force on May 1st, mandating the first real increase in the federal minimum wage since 2019 (Mello, 2023). This important policy, coupled with an increase in government spending on the famed means-tested income transfer program Bolsa Familia, contributed to the impressive 11.7 per cent increase in the mean income earned by Brazilian workers in 2023, as calculated by the Instituto de Pesquisa Economica Aplicada (IPEA) (ICL Economia, 2024).

Likewise, the new Lula administration has also made important strides with respect to the elimination of modern forms of slave labour in Brazil. Even though hundreds of job vacancies in the federal labour inspection system remain unfilled, thanks to severe budget cuts to the labour ministry imposed during the Temer and Bolsonaro administrations, labour inspectors were able to carry out 598 operations in 2023, successfully liberating 3 190 workers from working conditions analogous to forced labour (Brasil de Fato, 2024). As a result of these operations, employers were mandated to pay the record amount of R\$12.8 million (approximately US\$2.5 million) in compensatory payments as a form of reparations for these workers (Agencia Gov, 2024).

Another important development regarding the labour rights of women workers and championed by the Lula administration in 2023 was the passing of Law 14611/2023, colloquially known as the salary equality law. Even though the CLT and CF already codified the illegality of gender-based salary discrimination, this legal disposition was frequently (and in some cases, deliberately) misunderstood by employers, and underenforced by labour inspectors. Due to this reality, in 2022, Brazilian women workers earned on average 22% less than men in comparable occupations (Dyniewicz, 2023). Under the new law, companies with more than a hundred employees are now required to produce a salary transparency report, and in cases with registered salary disparities, employers are required to formulate and implement an action plan to mitigate salary inequalities between men and women (Planalto, 2023). If these action plans are not implemented with celerity and effectiveness, companies violating the law can face fines of up to three per cent of the total amount of their payroll costs. However, in March 2024, two major employers' confederations brought a lawsuit before the STF contesting the law, alleging that it does not allow for pay differences between men and women workers based predominately on other factors, such as seniority in the organisation (Falcao and Cassela, 2024). As evident from this example, employers are now intensifying their resistance to any expansion of labour rights for Brazilian workers, even those regarding uncontroversial topics already enshrined in existing law.

⁸ Interview with Clemente Ganz Lucio, via Zoom, 15 February, 2024.

The Future Protections and Guarantees for Platform Workers in the Current Lula Administration

Despite the impasses in the GT on the future of general labour relations and labour law, there appear to have been more advances made in the special GT dedicated to the “regulation of activities related to the provision of services, transport of goods, transport of passengers, and other activities conducted by means of platform technologies” (Presidencia da República, 2023). This tripartite working group was officially created on 1 May, 2023. Although the platform technology companies define their gig workers as independent contractors who provide services for platform users and not the companies directly (TST, 2023), the trade union representatives in the GT argued that many of the same protections and guarantees accorded to the directly employed should apply, including, for example, collective bargaining rights, trade union representation and social security benefits.

In addition to the efforts of the special GT to regulate labour relations and conditions for gig workers, the question of whether a fundamental employment relationship exists in the case of this particular subset of so-called self-employed workers is being litigated in the Brazilian judiciary. The question of whether there is an employment relationship between rideshare drivers and the company that creates and manages the digital platform is currently pending before the STF (STF, 2024). Uber petitioned for extraordinary and expedited review by the STF of the question, attempting to override the earlier findings of the TST which recognised the existence of an employment relationship between the driver and the company. According to the TST, the company must be considered a transport company and not a digital platform. The TST reasoned that the necessary employment “subordination” existed, since the driver has no control over the price of the rides or over the commission deducted by the platform for its role as digital intermediary. It is the company which establishes the parameters for accepting drivers and has the total power to terminate the driver for failure to comply with internal rules (STF, 2024). Following Uber’s extraordinary appeal request, the STF decided unanimously on 1 March, 2024, that it would widen the scope of the discussion on whether an employment relationship between the app drivers and the platform companies exists, also known as a “general repercussion” or *erga omnes* conclusion (STF, 2024). Whatever the STF decides regarding the specific appeal by Uber will apply to the entire platform services industry in Brazil and will effectively preempt all the other subordinate litigation on the same issue.

Notwithstanding the STF’s final decision on this fundamental matter, the special GT obtained baseline consensus from most of the members included in this selective social dialogue space, including the Brazilian employer representatives, to develop a bill proposing a special law to *complement* the CLT regarding platform rideshare workers, rather than being part of the CLT itself (Carmo, 2024). In other words, the proposed complementary legislation does not recognise an actual employment relationship between the driver and the platform company, and it does not depend on the existence of a relationship of this type to accord basic protections and guarantees to rideshare drivers.

Although the proposed complementary legislation does not accord the rideshare driver all of the protections and benefits of the CLT (since it is not predicated on the direct employment relationship by definition), Article 3, Paragraph 2 manages to provide collective bargaining rights for workers falling into the specific professional category of “application driver of four-wheel vehicle”, to be represented “by the union that covers the respective professional category” (Agencia Gov, 2024) and “the companies operating applications will be represented by the employers’ union of the specific economic category”. Moreover, as per Article 10, the complementary law provides

social security coverage for rideshare drivers by classifying them as individual contributors to the system. Also, Article 4, Paragraph 2 states that the labour judiciary has the final word regarding collective disputes.

Brazilian labour leaders linked to the CUT and other established centrals appear to be confident that the proposed bill will be ratified in the congress, since some Brazilian employer representatives in the special GT are supportive of the legislation, largely because it does not assert the existence of a direct employment relationship. This provision should assuage center and right-wing legislators⁹. However, associations representing rideshare drivers that are independent of the official union structure have been much more critical of the bill, especially the provisions that set a minimum hourly wage, which they believe could become a wage ceiling instead of a wage floor, as well as the measure which obliges them to make contributions into the Brazilian public social security system. This bill has now been withdrawn from the expedited process for debate and approval in the Brazilian Congress, and its future is far from certain (Azevedo, 2024).

In addition, there are other significant drawbacks to this proposal. The complementary law does not cover any platform workers other than rideshare drivers. Moreover, there is a real danger that the more neoliberal minded justices on the STF will ultimately rule, based on the Uber case, that all platform workers are essentially independent contractors, concluding that their contracts are commercial rather than individual labour accords. Such a result could remove the labour judiciary entirely from the final resolution of disputes, further eroding the role and legitimacy of labour justice in Brazil.

Conclusions – Can Social Dialogue Overcome Political Constraints?

At this moment, it is clear that the “honeymoon period” for the third Lula administration is now past (if it ever truly existed at all, given the attempt at full-blown insurrection carried out by far-right forces on 8 January, 2023). The economic and political elites that supported the previous administrations are now trying to capitalise on the perceived growing dissatisfaction with the Lula government, as measured by declining approval indices in recent opinion polls, such as the one released on 21 March, 2024 by Datafolha which registered a 35 per cent rating of the government’s actions as “excellent or good,” as compared to a December 2023 poll which posted a 38 per cent rating of “excellent or good” (Carta Capital, 2024). In particular, these elites are pushing the mainstream mass media to convey an erroneous message that the government is working to reinstate mandatory union contributions, identical for all intents and purposes to the earlier *imposto sindical* (for example, see Correia, 2023). The Lula administration is also facing key battles in the institutional political arena, as the government struggles to rein in the demands for “pork-barrel” spending by the *Centrão*, neutralise the disruptive politics advanced by the far-right congressional caucus and its extra-institutional allies heavily present in Brazilian social media and find spaces for compromise with the judicial branch and with the STF in particular, which has proven to be a stalwart defender of formal democracy, but far more reluctant to create jurisprudence expanding existing labour rights (Richter, 2023).

In recent months, the Lula government has had to accept legislative defeats with respect to the maintenance of corporate tax breaks and the demarcation of indigenous lands (the “*marco temporal*”). As any legislative attempt to roll-back some of the worst anti-union measures in the 2017 labour law reform is guaranteed to face resistance from both center-right members of the governing

⁹ Interview with Juvandia Moreira Leite, President of CONTRAF/CUT and Member of the CUT Executive Committee, Buenos Aires, Argentina, 18 March, 2024

coalition, as well as the oppositional neo-liberal right and authoritarian far-right, the government is now hesitant to introduce any bills regarding labour relations in 2024. According to Minister Luiz Marinho, any counter-reform would need to be voted on by the congress and the government's congressional base of support should not be "stressed out", as important local-level elections, whose outcome will impact the Lula administration's capacity for governance, will be taking place this year (Konchinski, 2024). Similarly, in the opinion of Clemente Ganz Lucio,

The federal government is racking up losses, as they have not been able to successfully map the political positions being taken by the *Centrão*. ... If there is no atmosphere to promote an acceptable tripartite agreement, something worse could come out of the congress, for example, in relation to the right of workers to not pay any financial contributions to their unions.¹⁰

Comparing the trade union proposal presented to the GT in the third Lula government with the Forum Nacional do Trabalho (FNT) of the first Lula administration, it can be asserted that, unlike the FNT dialogues, the most recent negotiations have produced a policy proposal resulting from a much stronger consensus among the eight ideologically and structurally diverse national union centrals. For example, all of the centrals, including the CUT, which has held a different position historically, have effectively agreed that *unicidade* be maintained as a tactical measure designed to guarantee union capacity and strength in the short run.

However, the most recent process is unlikely to produce far-ranging positive results in the short term, due to the fragile parliamentary support for the current federal administration, the heightened intransigence of employers' groups that are now institutionally conditioned against rolling back the anti-worker reforms they have benefitted from in recent years, and the general political climate marked by persistent threats to democracy writ large, posed by the highly-mobilised institutional and extra-institutional far right. The persistent popularity of far-right political and social media figures, despite the electoral defeat of Bolsonaro in October 2022 and the institutional condemnation of the 8 January 2023 attacks, is evidence of the far-ranging social polarisation which continues to exist in the country. Due to the fact that voters in Brazil exhibit low levels of political party identification, this polarisation tends to principally manifest itself at the affective and symbolic level (Fuks and Marques, 2022: 579), limiting the range of institutional options in fighting the far right. Accordingly, domestic policy space becomes very limited for contra-hegemonic measures, such as a pro-union labour law reform. According to Sergio Nobre, the current president of the CUT, "Our first priority in this moment still has to be the defense of democracy, which is at risk. We cannot underestimate the far right in Brazil. We need to defeat Bolsonaro and everything he stands for."¹¹

In order to both preserve democracy and expand it, through the construction and implementation of a more just, representative, and democratic labour relations regime, Brazilian unions and their allies in government now must try to win not only the battle for votes in Congress, but also the battle for the hearts and minds of the Brazilian population in general. As we observed during the Temer and Bolsonaro administrations, collective representation of workers was systematically weakened, unemployment soared and labour precarity became commonplace. In Brazil and around the world, workers' livelihoods are always put at risk when governments implement neo-liberal and neo-fascist policies. A more thorough-going break from clientelist and right-wing "allies" in congress, combined with increased independent working-class mobilisation to pressure all branches of the Brazilian government to restore labour rights, will be necessary to push through even minor labour relations reforms, either for formal-sector or platform workers. In our opinion, the future of the Brazilian labour movement, and the well-being of Brazilian

¹⁰ Interview with Clemente Ganz Lucio, via Zoom, 15 February, 2024.

¹¹ Interview with Sergio Nobre, via Zoom, 11 September, 2023.

workers in general, will depend on the successful realisation of such efforts.

References

- Agencia Gov (2024) Governo propõe Projeto de Lei que cria pacote de direitos para motoristas de aplicativo. Available at: <https://agenciagov.ebc.com.br/noticias/202403/proposta-de-projeto-de-lei-cria-pacote-de-direitos-para-motoristas-de-aplicativos> [accessed April 27, 2024].
- Agencia Senado (2021) Senado confirma medida que recriou o Ministério do Trabalho e Previdência. Available at: <https://www12.senado.leg.br/noticias/materias/2021/11/23/senado-confirma-medida-que-recriou-o-ministerio-do-trabalho-e-previdencia> [accessed May 29, 2023].
- ANAMATRA (2023) Financiamento sindical: mudança da regra do jogo, afinal, o que mudou? Available at: <https://www.anamatra.org.br/imprensa/anamatra-na-midia/34311-financiamento-sindical-mudanca-da-regra-do-jogo-afinal-o-que-mudou?> [accessed April 26, 2024].
- Araujo, A. (2023) *A valorização do trabalho na Constituição de 1988*. CTB. Available at: <https://www.ctb.org.br/2023/10/05/a-valorizacao-do-trabalho-na-constituicao-de-1988/> [accessed April 27, 2024].
- Azevedo, L. (2024) PL que regula atividade dos motoristas de aplicativos ganha mais tempo na Câmara. *Brasil, 61*. Available at: <https://brasil61.com/n/pl-que-regula-atividade-dos-motoristas-de-aplicativos-ganha-mais-tempo-na-camara-bras2411501> [accessed April 26, 2024].
- Bernardes, J.E. (2023) 'Imposto sindical não está nem em debate', afirma ministro Luiz Marinho. *Brasil de Fato*. Available at: brasildefato.com.br/2023/09/12/imposto-sindical-nao-esta-nem-em-debate-afirma-o-ministro-luiz-marinho [accessed August 14, 2024].
- Brasil de Fato (2024). Em 2023, 3.190 pessoas foram resgatadas da escravidão no Brasil; maior número desde 2009. Available at: <https://www.brasildefato.com.br/2024/01/28/em-2023-3-190-pessoas-foram-resgatadas-da-escravidao-no-brasil-maior-numero-desde-2009> [accessed April 27, 2024].
- Carmo, W. (2024) Proposta de regulamentação dos motoristas de aplicativo é ‘nova modalidade’ de trabalho, diz Lula. *Carta Capital*. Available at: <https://www.cartacapital.com.br/politica/proposta-de-regulamentacao-dos-motoristas-de-aplicativo-e-nova-modalidade-de-trabalho-diz-lula/> [Accessed August 13, 2024].
- Carta Capital (2024) Aprovação de Lula recua e empata com rejeição, segundo Datafolha. Available at: <https://www.cartacapital.com.br/cartaexpressa/aprovacao-de-lula-recua-e-empata-com-rejeicao-segundo-datafolha/> [Accessed March 21, 2024].
- CNI (2022) *O cenário sindical brasileiro e os 5 anos da Modernização Trabalhista*. Brasília: Confederação Nacional da Indústria.
- Collier, R.B. and Collier, D. (2002) *Shaping the Political Arena*. Notre Dame: University of Notre Dame Press.
- Colombi, A.P., Lemos, P.R. and Krein., J.D. (2018) Entre negociação e mobilização: As estratégias da CUT e da FS frente a Reforma Trabalhista no Brasil. *Revista da ABET*. 17(2): 179-198.
- Correia, V. (2023) Imposto sindical está de volta com outro nome. *Correio Braziliense*. Available at: <https://www.correiobraziliense.com.br/economia/2023/09/5122155-imposto-sindical-esta-de-volta-com-outro-nome.html>. [accessed March 21, 2024].
- CUT Brasil (2018) Sistema S banca entidades patronais depois do fim do imposto sindical. <https://www.cut.org.br/noticias/sistema-s-mantem-entidades-patronais-com-repasses-de-verba-e-pouca-transparencia-a84f>. [accessed March 28, 2024].
- De Almeida, G.R. (2011) *História de uma década quase perdida*. Rio de Janeiro: Garamond.
- DIAP (2022) Bancadas informais no Congresso. Available at: <https://www.diap.org.br/index.php/eleicoes-2022/91188-bancadas-informais-levantamento-preliminar-do-novo-congresso> [accessed May 27, 2023].
- DIEESE (2021) *A herança de 2021 e o que esperar de 2022*. São Paulo: DIEESE.

- Dyniewicz, L. (2023) Diferença salarial entre homens e mulheres vai a 22%, diz IBGE. *CNN Brasil*. Available at: <https://www.cnnbrasil.com.br/economia/diferenca-salarial-entre-homens-e-mulheres-vai-a-22-diz-ibge/> [accessed March 21, 2024].
- Falcao, M. and Cassela, V. (2024) CNI e CNC vão ao Supremo contra trechos da lei que trata da igualdade salarial entre gêneros. *Globo*. Available at: <https://g1.globo.com/politica/noticia/2024/03/14/cni-e-cnc-va-ao-supremo-contr-trechos-da-lei-que-trata-da-igualdade-salarial-entre-generos.ghtml>. [accessed March 20, 2024].
- FENAJ (2021) Senado derruba reforma trabalhista de Bolsonaro. Available at: <https://fenaj.org.br/senado-derruba-reforma-trabalhista-de-bolsonaro/> [Accessed September 27, 2024].
- FETEESC (2023) Projeto de valorização e fortalecimento da negociação coletiva Available at: <https://fteesc.org.br/wp-content/uploads/2023/02/sistema-sindical-proposto-pela-CUT-UGT-FORCA-SINDICAL.pdf> [Accessed March 31, 2024].
- Fichter, M., et al. (2018) *The Transformation of Organized Labour: Mobilizing Power Resources to Confront 21st Century Capitalism*. Berlin: Friedrich-Ebert-Stiftung.
- Figuroa Junior, N. (2023) Decreto cria grupo de trabalho interministerial para debater propostas de reestruturação das relações de trabalho. Available at: <https://setcesp.org.br/noticias/decreto-cria-grupo-de-trabalho-interministerial-para-debater-propostas-de-restruturacao-das-relacoes-de-trabalho/> [accessed May 26, 2023].
- Filgueiras, V.A. (2019). As promessas da Reforma Trabalhista: combate ao desemprego e redução da informalidade. In J.D. Krein, R. Veras de Oliveira, and V.A. Filgueiras (eds). *Reforma Trabalhista no Brasil: Promessas e Realidade*. Campinas, Brazil: Curt Nimuendajú.
- Fuks, M. and Marques, P. H. (2022). Polarização e contexto: medindo e explicando a polarização política no Brasil. *Opinião Pública*, 28(3): 560-593.
- Gacek, S. (1994) Revisiting the corporatist and contractualist models of labour law regimes. *Cardozo Law Review*, 16 (21): 24-25.
- Gacek, S. (2024) Commentary, freedom of association and union financing: a change of direction according to Brazil's highest constitutional court. *International Labour Rights Case Law*, 10: 46-51.
- Gielow, I. (2023). Datafolha: Polarização entre petistas e bolsonaristas é hoje a mesma do pós-eleição. *Folha de São Paulo*. Available at: <https://www1.folha.uol.com.br/poder/2023/12/datafolha-polarizacao-entre-petistas-e-bolsonaristas-e-hoje-a-mesma-do-pos-eleicao.shtml> [accessed August 31, 2024].
- IBGE (2020) Em 2019, mesmo com expansão da ocupação, sindicalização segue em queda no Brasil. Available at: <https://censoagro2017.ibge.gov.br/agencia-sala-de-imprensa/2013-agencia-de-noticias/releases/28666-em-2019-mesmo-com-expansao-da-ocupacao-sindicalizacao-segue-em-queda-no-brasil> [accessed May 26, 2023].
- ICL Economia (2024) Renda do trabalho do brasileiro subiu 11,7% em 2023, no maior patamar depois do início do Plano Real. Available at: <https://icleconomia.com.br/renda-do-trabalho-subiu-em-2023/>. [accessed March 21, 2024].
- Konchinski, V. (2024) Emprego sem salário garantido cresce após reforma trabalhista. *Brasil de Fato*. Available at: <https://www.brasilefato.com.br/2024/02/19/emprego-sem-salario-garantido-cresce-apos-reforma-trabalhista> [accessed March 20, 2024].
- Ladosky, M.H.G. and Rodrigues, I.J. (2018) A CUT e o sindicalismo brasileiro em anos recentes: Limites e possibilidades. *Tempo Social*, 30(1): 53-76.
- Leone, E., M. Teixeira, and P. Baltar (2021) Impactos da Reforma Trabalhista Sobre o Mercado do Trabalho. In J.D. Krein, R. Veras de Oliveira, and V.A. Filgueiras (eds). *O Trabalho Pos-Reforma Trabalhista*. São Paulo: Centro de Estudos Sindicais e de Economia do Trabalho.
- Mateus da Silva, H.B. (2017). *Comentários à Reforma Trabalhista*. São Paulo: Editora Revista dos Tribunais.
- Mello, J.M.C. (1975) O capitalismo tardio: contribuição à revisão crítica da formação e desenvolvimento da economia brasileira. Doctoral Dissertation. Instituto de Filosofia e Ciências Humanas, Universidade

Estadual de Campinas.

- Noronha, E. (2000) O modelo legislado de relações de trabalho no Brasil. *Dados*, 43(2). <https://www.redalyc.org/articulo.oa?id=21843202>.
- Pinheiro Rocha, A. and Moreira Gomes, A.V. (2017) The Fallout from the 2017 Labour Reform in Brazil for the Trade Union Movement. *International Union Rights* 4: 9-10.
- Planalto (2023) Decreto regulamenta lei da igualdade salarial entre mulheres e homens. Available at: <https://www.gov.br/planalto/pt-br/acompanhe-o-planalto/noticias/2023/11/decreto-regulamenta-lei-da-igualdade-salarial-entre-mulheres-e-homens> [accessed March 20, 2024].
- Poder 360 (2023) Leia a íntegra da decisão do STF sobre a contribuição assistencial. Available at: <https://www.poder360.com.br/justica/leia-a-integra-da-decisao-do-stf-sobre-a-contribuicao-assistencial/> [accessed March 31, 2024].
- Presidência da República (1988) *Constituição da República Federativa do Brasil de 1988*. Available at: https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm [accessed March 30, 2024].
- Presidência da República (2023) *Decreto Nº 11.513, de 1º de Maio de 2023*. Available at: https://planalto.gov.br/ccivil_03/ato2023-2026/2023/decreto/D11513.htm [Accessed March 30, 2024].
- PT (2020) 14 milhões de desempregados. E Guedes volta a defender mais flexibilização das leis trabalhistas. Available at <https://pt.org.br/14-milhoes-de-desempregados-e-guedes-volta-a-defender-mais-flexibilizacao-das-leis-trabalhistas/> [accessed March 29, 2024].
- Richter, A. (2023) STF nega vínculo trabalhista entre motoristas e empresas de aplicativo. *Agencia Brasil*. Available at <https://agenciabrasil.ebc.com.br/justica/noticia/2023-12/stf-nega-vinculo-trabalhista-entre-motoristas-e-empresas-de-aplicativo> [accessed March 25, 2024]
- Rodrigues, H. (2021) Minirreforma trabalhista da MP 1045 é rejeitada pelo Senado. *Revista Forum*. Available at <https://revistaforum.com.br/politica/2021/9/1/minirreforma-trabalhista-da-mp-1045-rejeitada-pelo-senado-102803.html> [Accessed March 26, 2024].
- Schmalz, S. (2017). Los recursos de poder para la transformación sindical. *Nueva Sociedad*, October: 20-41.
- Silverman, J. (2014) *Reformas sindicais e a inserção política do movimento sindical no Cone Sul sob os governos progressistas: Uma análise dos casos do Brasil e Uruguai*. Doctoral Dissertation. Instituto de Economia, Universidade Estadual de Campinas.
- Silverman, J. and Elicabide, L.M. (2023) Cambios y continuidades en las relaciones laborales en tiempos de retroceso: Los casos de Brasil y Colombia. *Revista de Ciencias Sociales*, 36(52): 13-37.
- Silverman, J. and L. Macdonald. (2023) Forging labour power in Mexico and Brazil. *NACLA Report on the Americas*, Spring: 57-66.
- STF (2024) STF irá decidir se existe vínculo empregatício entre motoristas e plataformas de aplicativos. Available at: <https://portal.stf.jus.br/noticias/verNoticiaDetalhe.asp?idConteudo=528592&ori=1> [accessed on March 25, 2024].
- TST (2023) Motorista não consegue reconhecer vínculo de emprego com a Uber. Available at: <https://www.tst.jus.br/-/motorista-n%C3%A3o-consegue-reconhecer-v%C3%ADnculo-de-emprego-com-a-uber%C2%A0> [accessed April 27, 2024].
- Vamos Juntos pelo Brasil (2022) Diretrizes para o programa de reconstrução e transformação do Brasil: Lula Alckmin 2023-2026. Available at: <https://www.programajuntospelobrasil.com.br/diretrizes/> [accessed May 26, 2023].

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