Critical Dimensions of the Brazilian Labour Reform

Jose Dari Krein and Katiuscia Morena Galhera

The Brazilian labour reform established in July 2017 is the umbrella for two other laws. The main law (Law 13.467/2017.) changes the general labour regulation established in the 1930s (the Consolidation of Labour Laws, Consolidação das Leis do Trabalho, or CLT). The second law (Law 13.429/2017) changes a precedent in the Brazilian jurisdiction that used to allow firms to outsource peripheral activities; now both core and peripheral activities can be outsourced.

It is worth mentioning that the labour reform is part of a set of other structural reforms weakening workers’ rights and public services, such as Bolsonaro’s unilateral Provisional Measure (Medida Provisória no. 873 of March 1st, 2019), which eliminates traditional union tax; the parliamentary Constitutional Amendment (Emenda Constitucional 95) to restrict public budgets; and the proposal of a pension reform which is under way. In sum, the reforms are part of a set of contemporary global structural changes or tendencies to adapt work to internationalised and financialised capital. Brazil is likewise part of a global trend to eliminate rules and regulations to which capital should be subordinated.

Arguments put forward in defence of the reform

In Brazil specifically, tendencies to labour reform arise from global tendencies taking varied forms, such as introduction of atypical forms of employment and (de)standardization of work shifts. In this regard, as David Weil (2014) demonstrated in The Fissured Workplace, workers are indirectly employed with increasingly flexible contracts to conform to new configurations of labour and employment relations in firms. In Brazil, this issue manifests in intermitente (intermittent) labour – unregulated work shifts paid by the hour. Also, the deregulation of pension systems is an outcome of the new labour and employment relations which was approved in Argentina and is being pushed in Brazil.

Arguments put forward in defence of the reform, especially by the employers’ organisation, the Confederation of National Industry (CNI), included higher competitiveness and productivity, through less restrictive rules for contemporary labour relations (Jakobsen and Salas, 2018).

Our main argument is that the weakening of public regulation of work and of associational and structural power of workers leads to a tendency for unilateral definition of terms and conditions of employment (such as contracts and remuneration) by employers.

Effects of the labour reform

Specifically, impacts of the labour law include the following:

Economic effects: the labour reform didn’t deliver what it promised to, such as increase employment levels. Average unemployment rates in the first three months of 2019 in Brazil were about 12.7%, or 13.4 million unemployed workers. This figure is higher than average rates in the first three months of 2018 (11.6%) (DIEESE, 2019). Rather than increase employment levels, the reform led to a competitive environment based on low salaries. Also, while the reform might improve relative international prices by lowering wages and thus lowering the labour costs of final products and services, it doesn’t create internal demand because workers’ purchasing power decreased. In fact, the Brazilian GDP in 2018, after the labour reform, grew only about 1.1% - the exact figure of growth in 2017, before the labour reform (see graph 1 below). Furthermore, although revenues per capita remained the same after the labour reform, poverty and inequality are increasing.

Changes in employment levels: as noted above, unemployment rates worsened and actually informality grew by the end of 2018 and beginning of 2019. Rates of self-employed workers, discrimination by gender and race, and outsourcing and intermittent labour increased. For instance, unemployment rates among women of colour are about 39% and national rates of unemployment are about 25%.

Working hours: on one side, informal workers have shorter work shifts and, on the other side, formal workers have longer work shifts. As it is more costly to hire a full-time worker permanently, the work shifts of full-time workers are prolonged while informal workers are offered short shifts to do specific tasks.

Weakening of associational and structural power of workers: the prevalence of negotiated collective agreements over collective agreements regulated by law, and the end of compulsory union tax, have been weakening labour unions. As a consequence, the quantity of collective agreements between workers and employers has decreased. Also, the quality and content of collective agreements has declined in terms of workers’ right. Of trade union leaders interviewed by DIEESE (the Portuguese acronym for the Inter Union Department of Statistics and Economic Studies, 60% consider that new collective agreements are worse than agreements from previous years. Also, in terms of collective action, workers’ mobilizations, such as strikes, declined by about 51.9% (Scherer, 2019). Some labour unions closed down. The CUT (Portuguese for the Unified Worker’s Central) – one of the main Brazilian labor organizations – dismissed 40% of its employees and its headquarters are for sale. The presidential Provisional Measure poses new challenges for unions’ financial contributions and survival, as it imposes individual bank payments for workers to contribute to unions. Previously, financial contributions from workers to unions were defined in assemblies and directly deducted in payslips.
Weakening of public entities has been promoted, as well as weakening mechanisms for labour claims: for instance: after the labour reform, judges might charge workers for labour claims, the Ministry of Labour and Employment was eliminated, the Public Ministry of Labour might be eliminated, and the number of labour suits have been dropping. These institutions are fundamental for workers’ protection in Brazil.

Bolsonaro’s government and new reforms

Finally, it has already been mentioned that the labour reforms are related to pension reform. The labour reform creates initial obstacles for workers to access retirement: for instance, how and to what extent could intermittent workers contribute from their position as precarious or nearly informal workers to their own retirement? Also, the sources of financing for retirement plans were weakened, as payment levels of workers who contribute to the social security system were affected.

Furthermore, it is worth emphasizing that unilateral measures to weaken labour unions have been promoted by Bolsonaro, such as the aforementioned Provisional Measure to break labour unions. Unions are resisting on grounded initiatives, from riots to organizing and reinventing political repertoires.

Graph 1 – GDP (market prices)

Source: (IBGE 2019)

Dari Krein is professor of Economy at Universidade Estadual de Campinas and the Global Labour University.

Katiuscia Galhera is finishing her post-doc on the Sociology of Work at Universidade Estadual de Londrina.

References


