

LABOR REFORM IN BRAZIL, WHAT IS THE NEW STRUCTURE FOR THE PRODUCTION CHAINS?

REFORMA TRABALHISTA NO BRASIL, QUAL A NOVA ESTRUTURA PARA AS CADEIAS PRODUTIVAS?

Wilson Almeida

Pró-reitor de Pesquisa e Pós-graduação da Unialfa. Pós-doutor pela Georgetown University, Washington DC. Professor de Gestão Estratégica Internacional.
E-mail: wilson.almeida@unialfa.com.br

Yong Wang

Professor and Researcher at West Chester University of Pennsylvania, USA
E-mail: ywang2@wcupa.edu

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Abstract

This Article aims to expand the discussion on labor reform that is on the agenda of the National Congress in Brazil. The 21st century world questions whether it is more important to have a job in simple conditions or not to have a job at all. This should not be the problem. Decent work that provides the worker with the qualitative reproduction of human knowledge for future generations, should be the point. On the one hand, there is the need to maintain a Rule of Law, on the other, the economic crisis of business. Flexibility, in a responsible and non-abusive way, shows itself as a possible means of compiling this conflict. As already stated, many factors and crises have transformed the world economy. As a result of these transformations, the paradigm sought now is a model of Labor Law open to change, which can adapt to the new world economic situation and to the demand of each company, in other words, a model with slightly more flexible rules.

Keywords: Labor Law; Economic development; Labor Reform; Competitiveness and foreign investment.

Resumo

Este artigo tem como objetivo ampliar a discussão sobre a reforma trabalhista que está na pauta do Congresso Nacional no Brasil. O mundo do século 21 questiona se é mais importante ter um emprego em condições simples ou não ter nenhum emprego. Este não deve ser o problema. O trabalho decente que proporcione ao trabalhador a reprodução qualitativa do conhecimento humano para as gerações futuras deve ser o ponto.

De um lado, existe a necessidade de manutenção do Estado de Direito, do outro, a crise econômica dos negócios. A flexibilidade, de forma responsável e não abusiva, mostra-se como um meio possível de compilar esse conflito. Muitas crises transformaram a economia mundial. Como resultado dessas transformações, o paradigma buscado agora é um modelo de direito do trabalho aberto a mudanças, que se adapte à nova conjuntura econômica mundial e à demanda de cada empresa, ou seja, um modelo com regras um pouco mais flexíveis.

Palavras-chave: Direito do Trabalho; Desenvolvimento Econômico; Reforma Trabalhista; Competitividade e investimento externo.

Introduction: Global competitiveness and labor relations

The twenty-first century began to observe, in a deeper way, the consequences of globalization. On the subject, in Cassar's words (2013, p.22) these changes is part of a whole formed by neoliberalism, privatizations, emergencies of multinationals, among other elements that structure the State and its political organization, as well as its international relations. These transformations strongly influence the national and global socioeconomic order.

The labor market, as already mentioned, does not remain outside these modifications, being even one of the most affected by this picture of transformations of liberal capitalism. Cassar (*idem*) states that:

The labor market has undergone a profound change in the face of strong market volatility, of the increased competition, of narrower profit margins, of the need for increased production, of the international division of labor and of the subordination of the poorer to the richer countries.

The technological revolution and the deepening of global interdependence, in spite of stimulating a greater expansion of the industries and the increase in the productivity of the companies, result in the exchange of the man by the machine, with the consequent diminution of the participation of the human being, especially of those who are less qualified. These transformations in the world of work and in the world economy generate logical consequences that affect everyone, such as the social, political and cultural inequality that lead to the growth of unemployment in the poorest countries, demanding intelligent solutions, adapting the various sectors of the market and of the society to this irreversible reality.

As already mentioned, over the last few decades, as a result of economic changes, the profile of jobs has changed, and many workers have not been able to adapt. Those workers, generally less qualified, become part of the migratory masses to other countries. Brazil has been chosen as the destination of many of them, which has generated a precariousness of the workforce in the country.

Before entering specifically on the immigration of workers to Brazil and its social economic consequences for the country, it is important to clarify some concepts. First: migration, immigration, emigration. That done, it is mandatory to establish the difference between a foreigner, an immigrant, an outsider, a refugee, and an exile. All these conditions may be driving forces in demanding an attitude from the State and society on the regulation of the labor market.

According to Saladini (2012, p. 16), migration is "the act of moving from one country to another (speaking of a people or a great multitude of people), the movement of space from one habitat to another." On the other hand, immigration "is the establishment of the individual in a country alien to his". And emigration "is the voluntary departure of the motherland to settle in another country".

As for the concept of foreigner, not even the Brazilian Statute of the Foreigner (Law No. 6,815 / 1980) defined the word. The concept is usually understood to be the natural person from a different country than the one in which it is located (Infopedia Dictionary). Mazzuoli (2012, p.719) conceptualizes foreigners by exclusion, as individuals who are not nationals according to the rules of sovereignty of each State, demanding that there be the physical displacement of the individual from the State to which he belongs to the jurisdiction of another. The author (*idem*, p.720) subdivides them into foreigners' resident in the country and non-residents (who are in transit), stating that both are potentially the holders of fundamental rights.

Mazzuoli (2012., p. 722) continues to differentiate the immigrant foreigner as being one who enters the country with the permanent permanence, differently from the temporary foreigner, who remains temporarily as tourists, students, and missionaries. Corroborating with Mazzuoli, Nicoli (2011, p. 23) defines an immigrant as "one who crosses national borders (which makes him a foreigner), but for the purpose of permanence, which modifies the substance of his legal status, in face of a differentiated insertion in society ". In the same sense Lopes (2009, p.32) conceptualizes the immigrant as one who crosses national boundaries, with the intention of inserting himself in the society of the destination country.

At the end of the twentieth century and the beginning of the twenty-first century, there is a change in the Brazilian migratory context that starts to export workforce and not just to receive it. Thus, migrations can have effects both for the country from which the worker leaves and for what receives him. (Guimarães, 2016, p. 39). As the foreigner offers a cheaper labor force, it generates a decrease in the salaries of the nationals of the receptive country and is therefore indicated as a factor of poor conditions of the work.

Migration flows involve complex issues. Inequalities among countries at the international level lead to socioeconomic asymmetries. Work is then seen as the cause of migration and as a resource for achieving a dignified life. The International Labor Organization (ILO) treats migration as work and is concerned to extend its normative instruments to this category as well.

As already mentioned, these migratory movements generate a poor condition to the labor force, since it makes the labor abundant in the receiving country, and, consequently, cheaper, causing the immediate reduction of the wages. However, these movements alone are not so devastating. Once more, the rigidity of the labor market is what hinders economic growth. Immigration is a reality, challenging the legal system to find a balance between the recognition of the fundamental right to decent work and the possibility of economic development of the country.

Another strong influence of changes in the labor market is the emergence of transnational and multinational corporations, and they are currently one of the main actors of International Economic Law (IEL). However, it is not easy to define them. The main reason for it is because there is no concept embodied in a treaty or by international custom.

Mello (1993, p.104) brings some criteria that can be used as a presupposition for definition. They are:

a) would be those capable of influencing the economy of several countries by exercising activity in them; b) would be the commercial companies in which the power of decision is dispersed in its subsidiaries; c) would be those that operate abroad through subsidiaries or affiliates, etc...

And he continues (idem, p.104) arguing that:

The characteristics of transnational corporations include a) a large enterprise with enormous financial potential; b) it has a scientific-technological heritage; c) the administration of it is internationalized; d) there is an economic unit and legal diversity of the different subsidiaries or branches that have different nationalities.

When it has emerged, apparently in the United States of America in the 1960s, the term used was "multinational" in order to hide its true nationality, because about 85% of them are of American origin, and the term was used to avoid problems of nationalism in the countries where they acted. More consistently, the UN chose to embody the term "transnational", since it is a company that operates beyond state borders and not that these companies have many nationalities (as the term "multinational" might suggest).

There are many factors that lead to the emergence, or to the development of a transnational corporation. Mello (ibidem, p.106) points out:

a) the companies went abroad in search of cheaper labor; b) they seek to control markets in order to facilitate exports; c) they control the sources of supply of raw materials; d) they avoid competition from local companies; [...] they increase their profit by overbilling what is imported from the matrix, as well as the under-invoicing of what they sell to the matrix [...]

These companies have immense economic power, affecting directly in the labor market and the economy of the countries where they settle. They now have a larger turnover than the gross national product of some states and grow on average twice as fast as the economy of the states in which they operate.

These companies usually produce products for commercialization both in the country where they are installed and in other countries, and it is common that this production occurs in several countries, in order to reduce the cost of production and increase the profit margin of the company. Most transnational corporations are from developed countries. They conquer the domestic market and start installing their branches in developing countries, precisely because they offer economic advantages for the company, such as cheaper labor, potential consumer market, infrastructure, reduction of tax burden and abundant raw material. In counterpart, the companies generate new jobs and the industrialization of the region, which is also positive for the host country.

However, most of the profits are sent to the parent company, which makes many advocates the idea of regulating transnational corporations in order to limit their power and prevent it from being devastating to developing countries where they are installed

because they often hold the exploitation of the basic product of these States, dominating their economy.

In Brazil, under the government of Juscelino Kubitschek, between the years of 1956 and 1961, transnational corporations began to be more important. During this period, Ford, GM, Willys, Volkswagen, among other factories were installed in the country. Currently several transnational companies have branches in Brazil, such as General Motors, IBM and Dell (United States); Peugeot (France); Nestle (Switzerland); Sony and Toyota (Japan); Nokia (Finland); Fiat (Italy) and Siemens (Germany).

Francisco (2016) states that there are currently about 40,000 transnational companies operating in the world market and that although most are from industrialized countries, there are also Mexican, Indian, and Brazilian companies. He calls attention to the example of transnational corporations with headquarters in Brazil: Vale do Rio Doce, Sadia, Perdigão and Gerdau.

All this is only possible because of globalization, since it provides the whole technological apparatus for carrying out these activities on a global scale, especially through interconnected transport and telecommunications services (idem, 2016). Having this said, it is observed that the segment of law that studies labor relations, have been much stimulated by the consequences of this new and immutable reality. Until this moment the studies have encountered difficulties, often ideological, to follow and process these mutations arising from globalization and rapid technological development as quickly as they occur.

In this scenario of economic crisis, technological rise and need for restructuring of management strategies is that the minimal intervention of the State emerges as a possible solution to the serious unemployment problem, as countries started to compete for the installation of companies in their territories, as an attempt to recover from the crisis, and, hence generating new jobs. As this new reality began to demand more and more multifunctional employees, this is attributed to the precariousness of work.

The creation more flexible labor laws to Brazil as a way to attract foreign direct investments to the country.

The contemporary economic, political and social crises have provoked a deleterious oscillation in labor relations, which generates mass unemployment and settles discussions on the traditional archetype of Labor Law. This, in turn, has not been able to effectively follow the speed with which social mutations have been processed.

It has been exposed in previous topics that transnational corporations are today a social actor in the global economy of great relevance. The world economy is now dominated by these companies and foreign direct investment. In this scenario, in

accordance with Yazigi (2016)¹, the amount of labor benefits provided under Brazilian law is a factor that scares foreign investment. He points out that:

Many foreigners suffer to understand the Brazilian labor legislation, considering that some benefits provided in the Federal Constitution and in the Consolidation of Labor Laws are non-existent in several countries. The greater the impact is caused when it is found that all benefits are granted cumulatively causing perplexity and hampering the discernment of nations with very different labor ordering.

With increasing trade openness, transnational corporations are looking for the best places to invest. They understand by better places those who have the most conducive trading environment. Brazil, despite having raw material and a large workforce, essential elements for production, it has a high contracting cost due to the excessive protection that is guaranteed by the laws to the workers. Yazigi (2016) highlights that:

Currently, Brazil is considered one of the world champions of labor actions with an average of 2.5 million cases per year, where there is no plausible possibility of conciliation except by at the Labor Court. Moreover, the high labor cost with one employee compared to other countries is, at present, over 100% of the value of the employee's own salary.

This discussion clarifies that the classic model of labor law needs to be discussed because of its difficulty in harmonizing solutions for the poor conditions of labor in the 21st century and for the new labor relations arising from technological, social, economic and political developments.

Cassar (2013, p.32) argues that:

Due to the transmutation of the world economy and the consequent weakening of each country's domestic policy, to the high levels of world unemployment and underemployment of millions of people, new measures should be taken aiming at harmonizing business interests with professional needs. That's justifies the bring flexibility of certain rigid rules or the creation of alternative rules to justify maintaining the health of the company and the source of employment.

The rigidity of labor legislation appears to be one of the causes that make it difficult to contain the unemployment crisis that plagues the country, precisely because it distances the interest of large companies to invest in Brazil.

Labor Law is a means, an instrument for the idealization of guarantees and improvements, not an end in itself. Justice related to labor has to be adapted to social reality and not vice versa. The labor legislation ends up harming the one in which it should support: the worker. That occurs mainly when it promotes an unreasonable social protection that stifles the economic development. That is why, once again, Cassar (2013, p.32) emphasizes the need for flexibilization as a way of maintaining the company and jobs. For her:

¹ Available at: <http://www.valor.com.br/legislacao/4748965/lei-trabalhista-e-investimento-estrangeiro>. Access on April 15th 2020.

To make flexible labor relations presupposes the maintenance of state intervention on it, establishing the minimum conditions of work, without which one cannot conceive the worker's life with dignity (minimum for survive), but authorizing, in certain cases, exceptions or less rigid rules, in a way that makes possible to maintain the company and the jobs.

It is imperative to assess whether our normative labor standards are still appropriate and effective, in the way they are, in order to conduct the labor relations of contemporary political and socioeconomic conjuncture. Faced with this reality of the 21st century, the proposal for Labor Law to accompany these changes and adapt to the new socio-political and economic context would mean the introduction of some changes in labor legislation, in which they consisted in the State giving up of its paternalism and making way for norms that lead the labor relations so that these could be ruled by more flexible precepts that leave a greater freedom of negotiations between employer and employee.

The employee wants to earn more and have better working conditions. The employer wants to pay less to have higher profit or to keep the business and to ascent in market. Cassar (2013, p.32-33) points out that it is necessary to locate some solution in the Labor Law itself to reconcile the principle of worker protection with the current need to maintain the health of the company. According to her:

There will be harmony of interests when the employee himself is aware of the precarious situation of his employer, of the difficulty of re-entering the market and of the threat of unemployment, at which point his interests will converge with those of the employer, starting to pursue together the recovery of the company.

This is not to diminish the importance given to the effective protection of the worker within the system of production, to the detriment of a savage capitalism, which seeks only the laws of the market with the sole scope of contentment of the particular interests of those who are economically wealthiest.

In fact, Cassar (2013, p. 26) highlights that:

The guarantee of minimum rights to the worker is part of a set of civilizing human values (minimum for survive), which finds support in the principle of the dignity of the human person constitutionally foreseen as the greatest patrimony of humanity.

On the "minimum for survive", Fachin defends:

(...) the existence of a minimum patrimonial guarantee inherent in every human being, which is part of the respective individual juridical sphere alongside the attributes pertinent to the human condition itself. It is a minimum capital indispensable to a life worthy of which, under no circumstances can be dispossessed, whose protection is above the interests of creditors.

What is wanted is an extension of the negotiating spectrum of the parties, which is contained in situations that require the taking of certain decisions that would be advantageous for both parties. In this way, the bring flexibility to labor law should be

used only when the real interests between employer and employee are convergent, in each concrete case.

The process of globalization has reached and continues to hit labor law intensively. Romita (1997, p. 87) gives the following lesson:

With regard to the effects of economic globalization on the world of work, it is necessary to consider the impacts on the company and on employment. Regarding the last aspect, it is important to point out the importance of the right to work in relation to Labor Law.

Make labor law more flexible can see as the best way to reconcile workers' interests with the economic crisis of companies. The need to relax is urgent, given the unemployment level that has taken hold in the country. Ianni (1996, p. 162) quotes the speech of the director of the International Monetary Fund (IMF) at the opening of the 48th Annual Assembly of the International Monetary Fund/World Bank in September 1993, in which he points to unemployment has the be faced by the industrialized countries, predicting that 32 million people in the rich world would be unemployed. That's in 1993. That's in the "rich world." At present and in poor or developing countries the quantitative is even more frightening.

If we recall the economic crisis caused by the demise of the real estate system that hit the United States in 2008², with cascading effect worldwide, in August of that year some 600,000 applications for weekly unemployment insurance were filed in the United States, while on November 25 of 2009 fell to 466,000 orders a week, demonstrating the rapid positive reaction from the US market. With consequences in Brazil³, there were registered in December of the same year, layoffs; and in the first half of 2009, in January, 101,748; in February, 1.22 million; and in March, 1.38 million. Brazil spent with the payment unemployment insurance the amount of R\$ 10 billion⁴ only in the first half of 2009. These facts reaffirm that there is a need to rearrange labor relations to contain the economic crisis, through a responsible way to make legislation more flexible.

The labor legislation needs of deep innovations in order to address the political, social, economic and technological changes. What is intended with more flexible labor legislation is simply to make the interests of employees and employers converge, avoiding an increase in the precariousness of work, and thus reducing the unemployment crisis in which the country is suffering.

Nassar (1991, p.76) takes a side in the sense that:

² Available at: <http://g1.globo.com/Noticias/Mundo/0,,MUL1256819-5602,00-PEDIDOS+SEMANAIS+DE+SEGURODESEMPREGO+CAEM+EM+MIL+NOS+EUA.html>. Accessed on: 10 November 2020

³ Available at: <http://agenciabrasil.gov.br/noticias/2009/04/29/materia.2009-04-29.9234533717/view>. Accessed on: 10 November 2020.

⁴ Available at: <http://jornalnacional.globo.com/Telejornais/JN/0,,MUL1241027-10406,00-PEDIDO+DE+SEGURODESEMPREGO+BATE+RECORDE+NO+GOVERNO+LULA.html>. Accessed on: 10 November 2020.

Make labor standards more flexible is an inherent part of a greater process of labor market flexibility, which consists of a set of measures aiming to enrich Labor Law with new mechanisms capable to respond to the changes of economic, technological order or of a different nature. This means that bring flexibility to labor norms does not finishes in one measure, but rather in the totality of the phenomenon of flexibility, which is more comprehensive, comprising political, economic and social strategies, and not just legal ones.

Criticize naively the laws of the market, capitalism, or entrepreneurs, *per se*, is insufficient to make practical changes. In fact, the essential is to introduce harmonization and balance between the regulation of the legislation and the paternalistic and unproductive intervention of the State.

To make labor legislation more flexible appears to be a vital necessity to solve in face of the problem of unemployment crisis. This crisis is associated with a peremptory need that is inherent to Labor Law that seeks to regulate labor relations arising from technological development and globalization. In case of not solving it, it can at least improve the unemployment rates.

Even in the 1960s, in Brazil, people had started talking about more flexible labor laws. The law 4,923/65, which instituted the reduction of working hours and wages as a means of avoiding mass unemployment, in order to protect employment at all costs, shows that there was already a concern of Labor Law with company's finances and not only with the worker's rights, that is because labor market cannot continue without the presence of entrepreneurs.

The Employee's Severance Guarantee Fund (Fundo de Garantia por Tempo de Serviço, in portuguese) FGTS, established in 1966, initially as an option, is another example of which the Brazilian legislator was already concerned about bringing more flexibility to it. Godinho (2007, p.1239) clarifies that:

The system of the Guarantee Fund not only removed legal limits to the unmotivated exemptions (in the Fund's system, it would be no longer legally possible to reach the old bargaining stability), but also significantly reduced the obstacle Economic breakdown of contracts for less than ten years, replacing it with the pre-constituted systematic monthly deposits of the FGTS.

It is, therefore, a relaxation imposed by the State itself, in view of the need to permit the country's economic development.

The Consolidation of Labor Laws (CLT), despite being published in 1945, already provided for the possibility of contracting for a fixed period, which also corroborates the thesis that the market is volatile and presents different needs, and the law must safeguard the rights involving the specific case. In the context of economic crisis, the Law 9.608/98, which allowed such a compliance of contract for a determined period for a longer time, was widely used as a solution to the excessive unemployment then lived by society.

In 1988 the Federal Constitution was enacted. It instituted innumerable rights and individual guarantees and was all guided by the valorization of work as a social right. Its understanding was constructed under the primacy of the dignity of the human person, consequently, of the worker, having the human being as the focus of labor relations. But even it did not fail to anticipate situations of flexibility. It authorized in its text expressly the reduction of wages, the compensation of working hours and the increase of this journey for the uninterrupted shifts of the relay.

The measures aiming to make labor relations more flexible in Brazil did not stop there. Several other measures were adopted, especially after the privatizations of several public companies and mixed-capital companies. In 1995, the Ministry of Labor, by means of ordinance 865, directed the tax authorities not to impose sanctions on companies that did not comply with provisions of collective agreements and agreements. (BRASIL, 1995), thus demonstrating the importance of these instruments as directors of labor law. Between 1999 and 2000, it became possible to suspend the employment contract for participation in professional training courses, to extend the one-year deadline for calculating the hour limit in the Bank of Hours and the institution of a profit and result sharing (PRS) of the company by the worker as a complementation of wages.

The jurisprudence, in turn, also conforms to the adoption of flexible measures. Summary statement 363 of the Superior Labor Court (TST) authorized the payment of salaries and FGTS only in cases of outsourcing of the activity of the Public Administration. Summary statement 331, also of the TST, in the same line of thought states that it is possible to outsource surveillance, conservation and cleaning activities.

Despite understandings such as that of Domingues and Teodoro (2010, p.75) in the sense that bringing flexibility through the possibility of outsourcing reduces the volume of workers regularly employed and brings consequently the reduction of labor rights and the precariousness of work. So, there is a need to consider the idea of labor standards more flexible, since a plausible solution to the unemployment crisis in Brazil requires the adoption of such measures. And this has already been perceived by the legislator himself, a long time ago.

Labor rights less rigid are a current and controversial issue in the contemporary legal, economic and political context. Of course, it is urgent to carefully assess its positive and negative aspects, as well as the conceivable implications that such a measure can have on society at large. This is not the time to remain limited ideologically and as a consequence do not understand social notions that disadvantage the collectivity as a whole.

As already explained, the importance of a more flexible Labor Law is fundamental to the Brazilian economic order. The labor norms did not follow the development of society, in which new events converged, establishing a reality very distant from the one in which most of these rules were minted.

The labor contract, being regulated by law, limits freedom. These laws have emerged to ensure legal equality, since one party to the employment contract - the employee - is likely to be over-equal to the other - the employer. This justifies state intervention in the relation (TEXEIRA and SÜSSENKIND, 2003, p.239). It happens that in Brazil, with rare exceptions, it is not the will, but the necessity that causes this labor relationship to arise.

This evidences a peremptory obligation to readjust to this new social panorama, which allows a greater movement and autonomy of the labor contracts, but without abandoning the maintenance of achievements that assert the dignity of the human person, the nuclei of such perceptions call for a balance in the social protection of the worker.

In addressing the process of turn labor standards less rigid as a fact of great importance, allowing a greater increase in labor relations, it has been demonstrated that the balance in the treatment of these norms can promote an increase in the hiring of workers. It can also increase the progress in working conditions and in the maintenance of companies, and especially a decrease in the poor conditions of work and unemployment. Finally, these measures consequently attract foreign investors to the country.

Roboredo (1997, p.92) clarifies that:

One of the primary principles of flexibility is the protective principle of Labor Law, which encourages the trade unions to act as a representative of the employees aiming to care for the working class. This protective principle is basically based on another principle: reasonableness or rationality, whose premise is that the human being acts reasonably and rationally, structuring his actions and behaviors within socially pre-established patterns.

What happens in Brazil is that, in the scope of protecting the worker, the state operates rigidly, having arrived at a prospect of, or not, a fossilization of labor relations, and often prevents the emergence of new jobs, fostering precariousness and unemployment.

In today's dynamic society of the twenty-first century, in a constant evolution, a reevaluation on the new ways to understand the labor relations and the socioeconomic and political development of society is a necessary in face of the new technologies and convergences of the contemporary world. All this should occur in order to maintain and to stimulate the proper performance of the economic order, adjusted to the social well-being and to the completeness of the dignity of the human person.

Another relevant principle about flexibility, according to Cassar (2013, p.34) is the one of adaptability. She ponders:

It is essential to consider that the labor standards aim at serving employees and employers, which makes the State the point of balance between these two sides.

That, of course, in order to reach the ideal point of adaptability, it is necessary for the State to be the regulator of standards, allowing, in most cases, flexibility.

Undoubtedly, this balance is sought by the state, society, employees and employers.

Sarmiento (2001, p.234) emphasizes that the Brazilian Federal Constitution is social, "concerned with the exploitation of man by man." As a result, the State has the constitutional function of providing health, education, security, leisure and culture to its citizens. And he continues (ibidem) defending "the direct application of the principles in it (Federal Constitution) contained as a means of reinforcing the protection of the unprivileged.

But in matter of fact the world is going through a crisis in labor relations. This crisis is provoked by the changes generated by the process of globalization and globalization of the economy, which, as already seen, is a constant and accelerated phenomenon and, therefore, often incapacitates the Legislator to accompany such speed of social change, and the law is not in a position to resolve contemporary labor conflicts.

Hence the importance of applying the principle of reasonableness to industrial relations. On this matter, Bonavides (2000, p.76) argues that:

This is what is new, comprehensive and relevant in every theory of contemporary constitutionalism: a principle whose vocation moves, above all in the sense of reconciling the consideration of realities not captured by or excluded by legal formalism.

However, Brazil intervenes with a highly paternalistic attitude, eliminating the autonomy of will of both employers and employees. Such attitude makes this relationship become costly, unbalanced and with forms of antipathy, what scares the foreign investor. The State, instead of attaching itself to its essential functions, in which it cannot conceal its inefficiency, it tends to interfere in juridical relations. These juridical relations would flow much more freely without the State's participation. Moreover, the State's functions would be much better executed by the private initiative.

What is sought with regulatory flexibility is precisely to prevent the extinction of companies and the consequent increase of unemployment, situations that cause per se the general deterioration of economic conditions for society.

The process of turning Labor Law more flexible seeks to respect the legal aspects of the national legal system and the dignity of the worker. It uses instruments provided by the labor law itself, *verbi gratia*: collective bargaining, conventions, individual contracts; always having in mind that the maximum purpose of less rigid labor law is the preservation of employment relations and the full exercise of business and industrial activities.

Cassar (2013, p.35) advocates that:

There must be a balance between the making labor relations more flexible and the realization of social values that preserve the dignity of the working human being through the application of post-positivist theory of constitutional principles, giving priority to man, the worker and his dignity, always in the light of Brazilian needs.

The imperative of common sense says that, despite the attenuation, one should always allow the maintenance of the heart of the issue, that is, the employment's relation and the operation of the activities of the companies.

The process of making Labor Law more flexible is shown as a means to compose the needs of joint effort in reconciling the economic order, the principles of social justice and the valorization of work. Society must ponder these interests and check the broader reflexes in a larger economic and social context, essentially defending the social and economic well-being of the collectivity. Rigidity in labor relations has led to unemployment, and the last one to a widespread social dissatisfaction. The inflexibility also takes away the interest of multinationals to settle into the country.

Martins Filho (2013, p.55) explains this approach:

The globalization of the economy as a current, growing and irreversible phenomenon must lead to the search for realistic solutions in the field of labor relations, as one of the factors of production, solutions that go through the reduction of indirect social charges, compensation for profit sharing, human factor, self-management, etc., since the traditional patterns of excessive labor law protectionism may lead to the dichotomy: higher wages and higher unemployment.

The basic goal of bringing flexibility to labor relations has been to make way to the practice of new work processes and thus to avoid the annihilation of the companies, with evident reflexes in the indices of unemployment and in the quality of the social conditions of the citizens.

For Martins Filho (2013, p.56):

The need to make labor standards more flexible arises both during periods of crisis in the economy and as a result of technological progress, which makes a superfluous part of the labor force employed. In these periods, the practical impossibility of companies to bear all the labor burdens, under penalty of losing competitiveness in the international market, in a globalized economy, being that the rigidity of Labor Law as a protective element of the weakest pole in the labor relation, could lead to the disintegration of productive factors: bankruptcy of the company entails damage not only to the entrepreneur, but also to the worker who loses his source of livelihood.

It is imperative to remember that deregulation cannot be confused with flexibility, since the former removes the shelter of state protection, allowing for unconditional private autonomy. According to Bauman (2008, p.15-18), deregulation can be understood as the absence of state norms governing employment relations, so that only the rules agreed between employee and employer would have a prevalence in the legal order. For him, "shifting the task of re-commoditizing labor to the market is the deepest meaning of the state's conversion to the cult of 'deregulation' and 'privatization'".

In the same way Uriate (2002, p. 28) defines deregulation as "the elimination or reduction of intervention by the protective state of the individual worker and restriction of collective autonomy, both at the limit of the politically possible".

Still on deregulation, Teodoro (2014, p.12) teaches that:

Starting from the construction of Bauman, solid modernity gives way to liquid modernity, characterized by the fragility of human relations, by the uncertainty, by the flexibility and deregulation of the work and flatness of the public sphere. It is maintained that in this scenario the company begins to produce on the Schumpeterian logic of creative destruction, alternating between crest of the wave, with high profitability, in other moments needing to reinvent itself. And in this sense, the idea of progress in today's liquefied societies becomes vague and imprecise because in the society of individuals progress is assumed by the filters of deregulation and privatization. In this way, individuals, in search of this progress, try to raise the level of reality present, try to perfect themselves, but are faced with innumerable offers and have to decide alone.

In this way, deregulation is the elimination of labor standards. It would be the same as disregarding all the achievements of workers over the years and allowing the subjects of the labor relationship to regulate their labor pacts on their own.

Flexibility, on the other hand, is an adaptation of the labor rules to the different realities that involve such a dynamic and particularized relationship, according to the needs of employees and employers in the concrete case. It implies the intervention of the State, however, operating in a softened manner, guaranteeing a basic normative protection, without which one could not imagine the dignity of the worker.

Martins Filho (2013, p.57) advocates that:

Flexibility represents the attenuation of the rigidity of the so protective Labor Law, with the adoption of labor conditions less favorable than those provided by law, through collective bargaining, in which the loss of economic advantages can be offset by the institution of other benefits, of social security nature, which did not excessively burden the company during times of economic crisis or transformation into the reality of protection.

Therefore, flexibility, as a result of the clash of globalization, may allow a broad oxygenation of labor relations by the parties (employee and employer), reducing state intervention.

Cassar (2010, p.40) argues that "the process of making labor relations more flexible means creating exceptions, giving malleability to the rigid labor laws, authorizing the adoption of special rules for differentiated cases." Catharino (1997, p.51), in turn, affirms the need for more flexibility as a way of "adapting labor legal norms to meet changes in the economy, reflected in labor and capital relations.

In a democratic state of law, one cannot be naive to the point of believing that the dignity of the human person would be naturally protected from the laws of the market. It is necessary to allocate the worker as a fundamental part in this process, guaranteeing their basic needs - paid rest, vacations, working hours,

etc. - their well-being corresponds to a core rigid fundamental to pay the result obtained by the autonomy of negotiation between employer and employee.

An elementary protective state foundation, coupled with the negotiation terms, will make the company offer the opportunity for the worker to feel useful, with their rights guaranteed, generating greater productivity, with less financial and social burden. This framework is capable of attracting direct foreign investment to the country.

The tendency to conceive flexibility as deregulation is what brings about an intense debate around it. Deregulation is a situation, as already mentioned, unacceptable. Deregulation reaches the hard core of workers' rights. It brings poor conditions of work to workers. (MARTINS FILHO, 2013, P.57). On the contrary, flexibility is acceptable, especially in combating precariousness of work and unemployment, and it shows itself as an active and balanced way of stipulating well-defined working conditions by terms negotiated between stakeholders.

Flexibility tends to the ideal, since it restricts state intervention in the labor field, by adopting the self-regulation system of labor relations, by the stakeholders themselves, through collective bargaining (Ibid.).

Thus, the implementation of the inter-party composition order, through the adaptation of legal norms, has been expanded in order to accept the derogation of formally preconceived conditions, which are accommodated to conjectural and circumstantial situations.

Delgado (2003, p.107) explains that by reducing the rigor of the norms, the forms of service delivery are attenuated, which leaves the work more flexible. He claims that:

the seek for more flexible labor rights, through collective bargaining, is reflected in the attenuation of the supposed rigor and imperativeness of legal norms. It is the phenomenon that allows the reformulation of a more malleable legal scenario from the point of view of labor contractors, especially the employer.

Labor legislation lacks rehabilitation to the new social context of the 21st century, since the Consolidation of Labor Laws (CLT), at the time of its elaboration, outlined a society and a socioeconomic context very different from the present. By making this comparison, the present inability to compensate for relations within the labor market of this instrument remains quite evident, to allow an adjustment between the mutual interests of the social agents. The picture of the present historical moment, completely different from that of the consolidation of labor laws, leads to this inefficiency in its application.

The reality is that the company burdened with excessive tax and labor charges, will have a more expensive national product. This leads it to outsource its activities, "going over the simplest ones to be made in countries where there is cheaper labor, a more affordable source of energy and more legal certainty regarding labor and tax regulations." (Martins Filho, 2013, p.54-55).

Martins Filho (idem, p.56) explains that:

On the one hand, if market reserve or taxation of imports could defend the domestic industry (protectionism), on the other, they are mechanisms that favor the increase of inflation due to the lack of internal competition (cartels), as well as not being compatible with the creation of regional economic spaces (EU, Mercosur, FTAA, etc.) aimed at the expansion of national economies.

A time characterized by broad social, economic, political, and technological changes makes way to open labor legislation to innovations. These innovations need to contain more generic norms, in order to harmonize an environment for collective bargaining, in which trade unions can freely transact in favor of workers flexibly, considering regional, entrepreneurial and professional particularities of each professional category.

In times of economic crisis, the reversal that must be paid to the difficulties should not be authoritarian or bureaucratic as the Brazilian State knows, in adverse, it must seek solutions based on the effectiveness of actions and based on reciprocal social dialogue.

This negotiation autonomy between parties clearly would be guided by parameters aiming to avoid a complete deregulation. Martins Filho (2013, p. 59) points out that make labor norms more flexible on matter of collective bargaining finds obstacles:

- a. no complete suppression of legally recognized right is allowed.
- b. inflexible social security, tax, procedural, medical, and occupational safety norms is allowed.
- c. flexibility of rights related to wages and working hours (CF, Articles 7, VI, XIII and XIV) is admitted, with reduction and implied compensation, in view of the theory of globalization (overall, the collective norm is favorable to workers).

With the changes brought about by globalization in the world of work, an innovation is made in the ideological configuration, seeking to be effective in the activities of the interested parties. Thus, the State, unions, employees and employers, aiming to achieve some harmony in order to promote economic efficiency with social justice, should rather ensure the implementation of the basic principles of Labor Law and human dignity. However, these principles must be agreed with the obligation for the development of companies, which benefit and promote the improvement of the whole society, with the increase of the supply of employment and income.

Martins Filho (2013, p.57) points out that, although these objectives can only be achieved:

with a strong unionism, extended to all productive branches, when the employer's economic power (on wages) can oppose, on equal terms, a labor union power (on service provision), so that such bargaining power, that were achieved by the union of workers, make the dialogue between employers and employees balanced. In this case we would have the prevalence of the negotiated over the legislated.

Globalization corroborates that the labor relations, *lato sensu*, need to be updated for a better regional and international balance in the interdependence between labor,

economic and legal issues, given the aspect that entrepreneurs and investors are caught up with, among other externalities, by more flexible legislation and with less labor charges.

Thus, referring to the understanding that the disorders between capital and labor no longer find solutions through state supervision and intervention, since it has been absolutely incapable of resolving conflicts of this nature, always seeking to impose and not to stimulate the self-composition between the parts.

However, Delgado (2002, p.212) presents a restrictive view of broad flexible labor relations. He divides the rights into absolutely unavailable and relatively available. The former cannot, for him, be relaxed, because they are part of a "minimum level of civilization." In this sense, the minimum level of civilization is the limit for collective bargaining.

This is not the understanding of some ministers of the Superior Labor Court. Cassar (2013, p.38) points out that they:

Argue that if the constituent authorized the most, that is, if the Constitution authorized the reduction of the highest of all rights (salary), by convention or collective agreement, then the least is also allowed. In this sense, anything other than the employee's own base salary is less.

Currently, in a world without frontiers, the autonomy of stakeholders must prevail and the solution of problems must be implemented jointly, constantly trying to open the opportunity for dialogue and negotiate favorable conditions to their interests without the intervention of the State. The freedom for agreement between the parties in the sense of self-composed decisions, based on the autonomy of the will, and made by observing the basic principles and rights of the worker in every step, do not bring any economic damage to the worker or to the company. Consequently, has a positive impact on the economic environment in a generalized way.

It is on the basis of this reasoning that Cassar (2013, p.39) argues that:

If the employer really is in serious financial difficulties and this remains properly and robustly proven, reductions in labor advantages can be accepted for the sole purpose of keeping all or part of the existing jobs. However, as an exception measure, this situation will be maintained only during the recovery process of the health of the company, no matter how long this represents.

The importance of companies in the face of the new reality of today's globalized society is very great, and the rigidity of labor normalization has in many cases blocked in a not very convincing way the autonomy of negotiations between employer and employee. The full functioning of companies is vital for the economic order, which is interconnected today by globalization. They are an extraordinary agent of modification of society. They are increasingly adopting new roles and having to take care of the humanization of work and maintenance of the dignity of the worker's person.

Gusmão (2016)⁵ emphasizes that the International Labor Organization (ILO) itself favors collective bargaining, and that the "collective autonomy must be legitimized in order to detail what only those who are part of the productive chain would be able to detail."

The state has to enable a healthy business environment that also allows entrepreneurs to achieve their goals. This possibility makes that the employers be able to perform their important function as a promoter of jobs, services and products, cooperating for the collection of taxes to maintain the state and the circulation of wealth in the economy. The direct interconnection between unemployment and the fall in economic activity confirms that companies deserve special attention from all sectors of society.

In a nutshell, make labor more flexible is an adaptation of the labor norms to the labor reality experienced by each group of professionals in a particular way. The attempt to make labor relations more flexible is guided by the valorization of the principle of autonomy of the will and the valorization of collective bargaining. It cannot be viewed in a negative way as, for example, the simple reduction of employees' rights in favor of the economic success of companies, a measure that is only conceivable by some parties of society in times of crisis.

In this line of thought, flexibility should be used as a way of promoting the dignity of the worker, as a person, a human being, deserves the protection of the legal system. Teodoro (2007, p.3) emphasizes that all work deserves a consideration for the energy expended, but since it is not possible to return work, the legal order must treat it in a differentiated way, elevating it to the condition of fundamental, social and human right.

The protection of the worker and the promotion of the valorization of the human being is the goal aimed when someone advocates for the adjustment of labor standards to each particular situation, a measure in line with the Brazilian Federal Constitution itself. This adaptation passes through the application of the more favorable norm to the worker, in the concrete case.

The General Theory of Norms proposed by Hans Kelsen, according to which the Federal Constitution is at the top of the legal order and, therefore, its precepts must be strictly applied in priority to the other existing norms, has never been applied to labor law. He has always been a supporter of the Principle of the Standard More Favorable, which, in Delgado's words (2007, p.178) means that.

The hierarchical normative criterion that prevails in Labor Law operates in the following way: the normative pyramid is constructed in a plastic and variable way, electing to its dominant vertex the norm that most closely approximates the teleological character of the subversive branch. Insofar as the teleological matrix of Labor Law points in the direction of giving solution to employment relations according to a social sense of restoring, hypothetically, in the juridical plane, a

⁵ Available at: <http://www.valor.com.br/legislacao/4694981/proposta-de-reforma-trabalhista>. Accessed on: 09 November 2020

balance that cannot be verified at the level of the economic-social relation of employment -, aiming, thus , the improvement the socio-occupational conditions of the worker. The hierarchical pyramid tends to prevail in the norm that best expresses and responds to this central teleological goal of labor. In such a framework, the hierarchy of legal norms will not be static and immutable, but dynamic and variable, according to the guiding principle of its configuration in the juridical order.

Advocating in the same line, Cassar (2010, p.64) argues that:

Unlike Kelsen's formal pyramidal prediction of common law criteria, labor law does not apply to the hierarchically "higher" norm, or to the special to the detriment of the general, but rather the more favorable to the worker or even the most beneficial factual situation to the employee, unless otherwise specified in Law. Thus, the hierarchical normative pyramid of labor legal norms departs from the traditional classical model to assure the worker, at the apex, the best condition and right, under a dynamic criterion that varies in each case, moving away from the Civil Law in which the norms are static in their hierarchies.

It does not matter the type of norm, but its content, and even the Principle of the Standard Most Favorable must be applied both at the time of the norm's elaboration and in the confrontation between competing rules and in the interpretation by the applicator of the Law, as taught by Delgado (2007, P.79):

The guiding principle of Labor Law, which best incorporates and expresses this constitutive teleological meaning, is, as seen, the principle of the standard more favorable to the worker. Thus, it will apply to the specific case - being in that case hierarchically superior - to standards more favorable to the employee. The vertex of the normative pyramid, variable and changeable - although apprehended according to a permanent criterion -, will not be the Federal Constitution or the federal law necessarily, but the norm more favorable to the worker. There is thus no irreconcilable contradiction between state heteronomous rules and autonomous collective private rules (between state law and social group law), but a kind of harmonious coherence: the rule that disciplines the relationship in a more beneficial to the employee will prevail over the others, without permanent derogation, but mere preterit in the focused concrete situation.

However, in this way, there is nothing to prevent the subjects of the employment relationship from agreeing to rules that apply to that particular case, since they are the most knowledgeable of what is "more favorable", by reason of what can be positive for the worker in a certain context (political, economic or social), it may cease to be at another time.

In 2015, 1.54 million formal jobs were closed in Brazil, according to the Ministry of Labor. That is another fact that proves that protective laws do not effectively protect the worker. This study does not intend, as has already been pointed out, to defend the end of the labor rights won over the years, but it is necessary to recognize that some changes is demanded in order to create conditions for a new market and a new world economy.

The environment must be supportive so that the creation of alternative forms of work could be safely implemented and lead to its essential function, which is effectively

protect the worker. The country's legal insecurity undermines global competition under this pretext of protection.

The Brazilian government, aware of this reality, had announced the Program for the Protection of Employment (PPE - Programa de Proteção ao Emprego in Portuguese, in 2015. This program allowed the relaxation in the workday, authorizing companies to reduce it with the corresponding reduction of salary as an emergency measure in times of economic downturn, in order to discourage layoffs in companies with temporary financial difficulties.

The measure is praiseworthy insofar as it stimulates the country's economy, helping to maintain the balance and contributing to the preservation of the worker's FGTS balance and reducing the impact on the INSS, Income Tax and other indirect taxes collections. The employee continues to be part of the consumption cycle, generating wealth, benefiting the economy of the country as a whole.

According to IBGE, a research institute of the Brazilian State, more than 7.9 million Brazilians lost their jobs, until May 2020, on the occasion of COVID 19. Since the beginning of the historic series, for the first time the number of employees has been lower than the economically active population. The pandemic alters some data and worsens the employment situation, however, it does not enter into the discussion of the labor regime itself.

Final considerations

Within a context of a globalized economy, all countries aiming to succeed in the international market economically need to bring up a way to attract foreign investment into their territory in order to enable their product to be competitive internationally. Neoliberalism, privatizations, the emergence of multinationals, among others elements related to the structure and functions of the State are, along with globalizations, elements that have been generating the crisis of Labor Law and have been changing international relations and the national and global socioeconomic order.

The end of geographical boundaries, with the integration of markets and economy at the supra-national level, has created a new social actor as an employer - transnational corporations: oligopolistic companies that aim to guarantee production at the lowest cost by acquiring more efficient locations for their production facilities or through tax concessions made by host countries. The raise of competition, of fickleness market, of the necessity of a large production with the narrower of profit rate, of the international division of labor, of the subordination of poorest countries to the richest, of immigration, of economic crisis, of military conflicts and of wealth concentration are examples of some deep transformations occurred at the labor market. These changes brought a lot of consequences that affects everyone such as: social, political, cultural, religious, and racial inequality; denationalized nations, countries more poor and rising unemployment.

The emergence of these transnational corporations and the need that countries have to be inserted in the international economy require a change in the posture of each nation that intends to attract foreign investment to itself. This change goes through a reform in the Brazilian labor legislation, in order to make it less paternalistic, since this rigidity increases labor costs and generates a consequence in the final price of the product manufactured at Brazil, making it less competitive in the world market.

The defense of the worker and the rights they have earned over the years cannot serve as a basis for advocating against a change in attitude in the face of this new social and economic reality. The inflexibility can generate an even worse situation to the worker, which is the one of the complete unemployment.

Capital and work will always be together. In this clash, the tendency of the employer is to demand maximum productivity with minimum wage compensation, while the worker's goal is to obtain maximum economic advantage with the minimum amount of labor energy expended. And it is in this scenario, to contain this clash, that the performance of the State becomes necessary, in order to protect the weakest side of the relation, establishing a minimum level of protection.

What is in debate is that, over time, the rights conquered gradually and through hard working by the working class, had a progressive increase in the advantages granted to it, which is questioned is if this level of labor rights is still "minimal".

From the company's perspective, the expansion of labor legislation and the constant concession of benefits granted cumulatively imply a progressive increase in social charges, which in some cases may jeopardize the success of the economic enterprise. This scenario may generate the inverse effect of the sought: instead of securing employment, what will happen is to annihilate the source of income of the worker.

What is interesting at this time of economic crisis is to make labor legislation more flexible in order to make it less protective and competitive, since protective legislation without economic development, such as the Brazilian case, means that national products do not compete in the international market, generating the closure of jobs in the country and excluding foreign direct investment.

Based on parameters that do not lead to deregulation, a more flexible labor legislation allows the interested parties themselves, through legally established bargaining instruments (collective bargaining agreements) to agree on the rights involved in the specific case, so that both could achieve their interests.

Labor Law itself lists situations in which this flexibility can occur. Doctrine and jurisprudence elude these legal possibilities in order to achieve all concrete situations not covered by the law (since it is known that the law cannot really consecrate all hypothetical social situations). The Brazilian government has been adopting measures aiming at more

flexible labor laws precisely with the purpose of attracting foreign investment as a means of enabling the country's economic development.

In the current Brazilian economic scenario, other measures of making labor relations more flexible should be adopted, such as outsourcing in the company's end-activity. The CLT needs to be modernized so that labor relations can adjust to the new realities of the economy and restore the confidence of market and consumer by stimulating employment, reducing informality and protecting the worker.

The labor market will only be a market and will generate efficiency if it allows the free agreement of effective contracts and guarantee the entry of new workers. Trade unionism should be optional and trade union tax should be abolished. The ease in doing business is what attracts investments to a certain country and not a bureaucratic and paternalistic legislation. Therefore, it is not the State alone that guarantees the workers' rights, but it in conjunction with productive private initiative.

References

BAUMAN, Zygmunt. *Vida para consumo*. Tradução de Carlos Alberto Medeiros. Rio de Janeiro: Zahar, 2008.

BOBBIO, Norberto. *Liberalismo e Democracia*. São Paulo: Editora brasiliense, 2006.

BOUCINHAS FILHO, Jorge Cavalcanti; BARBAS, Leandro Moreira Valente. *Migração de trabalhadores para o Brasil: aspectos teóricos e práticos*. São Paulo: Saraiva, 2013.

BRASIL, Ministério do Trabalho e Emprego. *Estabelece critérios para a fiscalização de condições de trabalho constante de convenções ou acordos coletivos de trabalho*. Portaria n. 865, de 14 de setembro de 1995. Available at: www.mte.gov.br. Accessed on: 13 March 2020.

CASSAR, Vólia Bomfim. *Direito do Trabalho*. 8. ed. rev. e atual. São Paulo: Método, 2013.

_____. *Princípios Trabalhistas, Novas Profissões, Globalização da Economia e Flexibilização das Normas Trabalhistas*. Niterói: Impetus, 2010.

CASSESE, Sabino. *A crise do Estado*. Campinas: Saberes Editora, 2010.

CRISTÓVAM, José Sérgio da Silva. *A resolução de colisões entre princípios constitucionais*. Available at: <http://jus.com.br/artigos/3682/a-resolucao-das-colisoes-entre-principios-constitucionais/3> Accessed on: 19 November 2020.

CRIVELI, Ericson. *Direito internacional do trabalho contemporâneo*. São Paulo: Ltr, 2010.

DOMINGUES, Gustavo Magalhães de Paula Gonçalves; TEODORO, Maria Cecília Máximo. *Alternativas para o sindicalismo: o enquadramento sindical pela atividade do trabalhador ou do tomador de serviços*. *Revista do TST, Brasília*, vol. 76, n. 2, p.72-83, abr/jun 2010.

Estrangeiro in Dicionário Infopédia da Língua Portuguesa com Acordo Ortográfico [em linha]. Porto Editora, 2003-2016. [consult.2020-11-03 14:13:13]. Available at: <http://www.infopedia.pt/dicionarios/lingua-portuguesa/estrangeiro>.

FARIA, José Eduardo. O direito na economia globalizada. São Paulo: Malheiros, 2015.

Folha de São Paulo. . <<http://www1.folha.uol.com.br/infograficos/2013/11/787668-as-principais-privatizacoes-de-cada-presidente.shtml>> Accessed on: 04 September 2020.

Folha de São Paulo. <http://dinheiropublico.blogfolha.uol.com.br/2015/01/29/governo-dilma-anuncia-rombo-inedito-de-r-172-bi-no-caixa-do-tesouro-saiba-causas-e-consequencias/> Accessed on: 04 September 2015.

FRIEDMAN, Milton. Capitalismo e liberdade. Tradução de Luciana Carli. São Paulo: Nova Cultural, 1984.

FUKUYAMA, Francis. Construção de Estados – Governo e Organização no Século XXI. Rio de Janeiro: Rocco, 2005.

GRAU, Eros Roberto. Despesa pública-conflito entre princípios e eficácia das regras jurídicas-o princípio da sujeição da Administração às decisões do Poder Judiciário e o princípio da legalidade da despesa pública. Revista Trimestral de Direito Público. n. 2, São Paulo: Malheiros, 2003.

GUIMARÃES, Priscilla de Brito Ataíde. A imigração e a proteção do trabalho: o dilema entre a aplicação do estatuto do estrangeiro e a proteção trabalhista dos imigrantes bolivianos e haitianos. São Paulo: LTr, 20016.

HAYEK, Friedrich August von. O Caminho para a Servidão. Lisboa: Edições70, 2009.

KERSTENETZKY, Celia Lessa. O estado do bem-estar social na idade da razão: a reinvenção do estado social no mundo contemporâneo. Rio de Janeiro: Elsevier, 2012.

KORNIS, G. (1994). A crise do Estado de Bem-Estar: Problemas e Perspectivas da Proteção Social, Tese de Doutorado, IEI/UFRJ, mimeco.

KRUGMAN, Paul R. e OBSTFELD, Maurice. Economia Internacional: teoria e prática. 4. ed. São Paulo: Makron Books, 1999.

LAZZARATO, Maurizio. As revoluções do capitalismo. Tradução de Leonara Corsini. Rio de Janeiro: Civilização Brasileira, 2006.

MARTINS FILHO, Ives Grandra da Silva. Manual Esquemático de Direito e Processo do Trabalho. 21. ed. rev. e atual. São Paulo: Saraiva, 2013.

MATIAS, Eduardo Felipe Pérez. A humanidade e suas fronteiras: do Estado soberano à sociedade global. São Paulo: Paz e Terra, 2005.

MAZZUOLI, Valério de Oliveira. Curso de Direito Internacional Público. 6. Ed. São Paulo: Revista dos Tribunais, 2012.

MELLO, Celso D. de Albuquerque. Direito Internacional Econômico. Rio de Janeiro: Renovar, 1993.

MENEZES, Mauro de Azevedo. Constituição e reforma trabalhista no Brasil: interpretação na perspectiva dos direitos fundamentais. São Paulo: LTr, 2003.

NASSAR, Rosita de Nazaré Sidrim. Flexibilização do Direito do Trabalho. São Paulo: LTr, 1991.

NICOLI, Pedro Augusto Gravatá. A condição jurídica do trabalhador imigrante do direito brasileiro. São Paulo: LTr, 2011.

OHMAE, Kenichi. O fim do Estado-Nação. Tradução de Ivo Korytowski. Rio de Janeiro: Publifolha, 1999.

OLIVEIRA, Maria José Galleno de Souza. A globalização da pobreza: impactos das políticas sociais de Estado neoliberal nas democracias dos países latino-americanos. Available at: <http://www.revista.usp.br/rfdusp/article/view-File/67632/70242>. Accessed on: 04 August 2020.

POCHMANN, Márcio. Sistema único de inclusão social. Cienc. Cult., São Paulo, v. 55, n.1, jan. 2003. Available at: http://cienciaecultura.bvs.br/scielo.phb?script=sci_arttext&pid=S0009-67252003000100003&lng=en&nrm=iso. Accessed on: 14 April 2020.

REALE, Miguel. A globalização da economia e o direito do trabalho. Revista LTr, 61-01/12.

ROBOREDO, Maria Lúcia. Flexibilização do direito laboral no Cone Sul. Rio de Janeiro: Universidade Gama Filho, 1997, Tese de Doutorado.

ROMITA, Arion Sayão. Globalização da economia e direito do trabalho. São Paulo: LTr, 1997.

RUDIGER, Dorothe Susane. Autonomia privada coletiva e crise paradigmática no direito do trabalho. Verba Juris, v. 5, n. 5, jan./dez., 2006.

SALADINI, Ana Paula Sefrin. Trabalho e imigração: os direitos sociais do trabalhador imigrante sob a perspectiva dos direitos fundamentais. São Paulo: LTr, 2012.

TEODORO, Maria Cecília Máximo. O trabalhador em tempos de modernidade líquida e destruição criadora com identificação. Encontro de Internacionalização do Conselho Nacional de Pós-Graduação em Direito/UB, 1, 2014, Barcelona. Anais do 1º Encontro de Internacionalização do CONPEDI, Barcelona, ES: Conpedi, 2014. Available at: <http://www.conpedi.org.br>. Accessed on: 22 March 2020.

URIARTE, Oscar Eremida. A flexibilização. São Paulo: LTr, 2002.

VICENTE, Maximiliano Martin. A Crise do Estado de bem-estar social e a globalização: um balanço. São Paulo: Editora UNESP, 2009. Available at: <http://books.scielo.org/id/b3rzk/pdf/vicente-9788598605968-08.pdf>. Accessed on: 26 January 2020.