



ANALYSIS OF THE INFLUENCE OF BRAZILIAN LABOR LAW ON THE MANAGEMENT OF PRIVATE COMPANIES

Richard Magnus Quadros¹
Adriana Carvalho Pinto Vieira²
Julio Cesar Zilli³
Patrícia de Sá Freire⁴

Resumo

At the time when labor relations are changing at an accelerated pace, Brazilian labor law and its relations are moving slowly, and this mismatch affects the management of numerous organizations. Thus, this study identified and subsequently analyzed the proposals defended by CNI, ANAMATRA, FIRJAN and CUT that, within their areas of activity, suggest revisions of the current Brazilian labor legislation. The methodological procedure used in the study was carried out through the application of bibliographic-documental, exploratory and descriptive research, of search directed to the theme. In the end, it was found that the result is a paradox: the problem caused to the management of private companies through labor legislation is not in its omission, but in the excessive regulation and regulation imposed by it.

Key words: Labor legislation. Human resource Management. Influence on companies. Revision proposals. Legislative modernization.

1. INTRODUCTION

The Federal Constitution, Maximum Law of Brazil promulgated in 1988, is conceptualized on the democratic principle and seeks to guarantee the self-determination and sovereignty of the Brazilian people, since the government, elected by direct vote, receives powers emanating from the people, in order to guarantee equal conditions, the country's sovereignty, citizen participation and meeting the needs of the population (MEDEIROS, 2000). However, even after all these years, the Charter has undergone several reforms and modifications, preserving old habits and slowly adapting to the population's social reality (MELO, 2008).

For Meneguim (2011), legal norms influence citizens and companies and reflect on the efficiency of economic activities in the country and in organizations. Corroborating,

¹ UNESC-Quadrosmagnus@gmail.com

² INCT / PPED / UFRJ-dricpvieira@gmail.com

³ UNESC-zilli42@hotmail.com

⁴ UFSC-patriciasafreire@gmail.com

Giambiagi (2008) points out that all types of legal norms and all kinds of matters affect the performance and performance of private companies. And the labor, tax, civil or environmental legislation, says the author, all companies must know them by assimilating their obligations and seeking their rights.

Data from the National Industry Confederation (CNI) and the Federation of Industries of Tocantins (FIETO) (2012) denounce that bureaucracy and legal obligations affect the competitiveness of approximately 86% of companies. The same survey showed that 79% of companies say that the government should give priority to reducing bureaucracy in Brazilian legislation, especially those related to labor relations. Still, in a survey conducted by the newspaper O Estado de São Paulo (2013) with successful businessmen and entrepreneurs in the country, it was questioned which were the biggest difficulties encountered the management of your companies today. Among the results, among many other difficulties pointed out, is the coexistence with several laws and norms in the three federal spheres, especially the labor legislation that has different interpretations and ends up interfering in the companies' finances, imposing obligations and reducing their profitability.

Thus, Carlin (2008) points out that organizations in general should study the possibilities of reducing the impacts caused by obligations imposed by rules and laws, with measures to contain extra expenses or restructure the company's functional structure, to reduce the transfer of these expenses to the final price of your products.

The same legal norm that allows the government to have the means to benefit the population (CARVALHO, 2007), can also be used as a bureaucratizing tool and a hindrance to organizational activities or become an artifice for imposing strenuous methods and obligations on companies (PAULA, 2007). In this light, this research aimed to identify which actions presented in the literature to reduce the influence of Brazilian labor legislation on the management of private companies.

In order to analyze the Brazilian labor legislation and its influence on the management of private companies, the research started by contextualizing the evolution of this legislation historically. Subsequently, it lists in the current labor legislation the aspects that most impact the management of private companies and finally maps action proposals already constituted and that propose changes in these rules.

2 THEORETICAL FOUNDATION

This chapter will theoretically support the theme of the present study, in order to achieve the proposed objectives.

2.1 HISTORICAL CONTEXTUALIZATION

The Golden Law, enacted in 1888 and which abolished slave labor in Brazil, is considered an initial landmark of labor legislation. With the Proclamation of the Republic the first norms for the work were edited, motivated by diverse demands of the working class. However, only after the Revolution of 1930, the labor policy was reformed with the creation of the Ministry of Labor, Industry and Commerce (BRASIL, 2013).

Another legal highlight that regulated labor relations in Brazil was the promulgation of the 1934 Federal Constitution, which enshrined greater freedom and union autonomy for the working class. Furthermore, the biggest Brazilian labor legislation was the sanction of Decree-Law No. 5,452, on May 1, 1943, the famous Consolidation of Labor Laws - CLT, which in the first years of its effectiveness saw the doubling of the labor contingent in the country (ASSIS, 2013). For Benvenuti (2013), the CLT was born as an instrument for consolidating all social labor legislation initiated between 1930 and 1943.

Later, with the 1964 coup and the establishment of the dictatorial regime in Brazil, the government started to control class activities and the union movement of the various segments of work, with several legal measures, in addition to those imposed by the CLT. At the same time, and due to these restrictions, organized movements emerged focused on combating state restrictions and guaranteeing a return to democracy (VILELA, 2012).

With the promulgation of the 1988 Federal Constitution, labor rights and worker protection are again guaranteed, now set out in the constitutional text (ASSIS, 2013) and listed enactively. In this way, there is an avoidance of an endless range of prerogatives, possible through amendments, which would culminate in marginalization and interpretive duality, preventing the working class from being led to a prosperous social condition (BULOS, 2008).

Vasconcellos (2013) states that the evolution of the application of labor standards reflects the challenges and paradigms of post-industrial society and highlights that, due to their final function, labor rights seek to ensure qualified social and working conditions for workers who, as Pereira points out (2009), is the under-sufficient part of the relationship. In this sense, it is morally correct that principles are created that seek to guarantee means of sustaining equality closer to the real truth.

2.2 PROPOSALS THAT SEEK TO REDUCE THE IMPACTS OF LABOR LEGISLATION

The present study proposes to analyze the paths indicated by the scientific literature to reduce the influence of Brazilian labor legislation on private organizations. Chiavenato (2008) points out that there are numerous divergences between the performance of labor market agents and the Brazilian labor legislation, given the restrictions based on the legal norm. The author points out that, at the same time that social and political forces seek to expand these restrictions and tighten them more and more, others seek to soften the current impositions, in order to enable prosperity to society through the growth of private organizations. Thus, the author continues, in the midst of this dispute, the labor legislation receives several criticisms from organizations that claim an impediment in the generation of jobs and because of the excessive burden of its costs. Penna (2010) states that the country's sustainable growth depends on the performance of private companies, however, the current labor model binds it. For the author, the most problematic line of the current labor legislation is that there is no distinction between the bad and the good employer, causing evident financial and managerial losses and in the responsible social performance of organizations.

Ongaratto (2010) highlights that the labor legal system started in the 1940s, despite being a legislative historical landmark, has become obsolete, thus arising the need to modernize it to meet the highly turbulent environment, since the transformations happen in a faster and faster, enabling legislation to act in a way that minimizes the difficulties caused by the economic, political and cultural changes experienced today.

In this sense, the section that begins will present which proposals have already been formulated to review the current labor legal provisions and enable a reduction in the impacts on the various Brazilian private organizations. The proposals now analyzed were formulated and currently defended by the Federation of Industries of the State of Rio de Janeiro - FIRJAN, by the National Association of Labor Justice Magistrates - ANAMATRA, by the Central Única dos Trabalhadores - CUT and by the National Confederation of Industry - CNI, both entities in full operation and with recognized performance in the defense of labor and collective rights in the country.

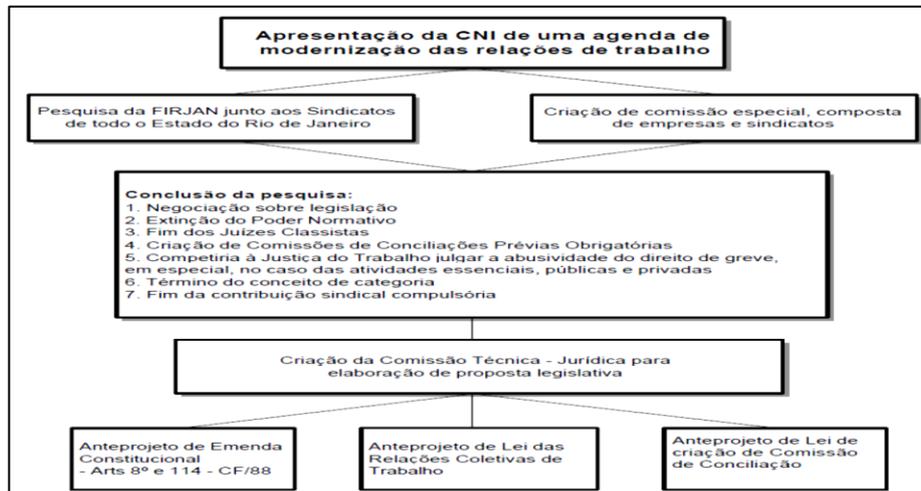
2.2.1 FIRJAN's proposal

In 1999, the Federation of Industries of the State of Rio de Janeiro (FIRJAN), motivated by the Agenda for the Modernization of Labor Relations published in 1995 by the National Confederation of Industry (CNI), initiated an extensive research with its bases, of which 48 unions and 121 companies, in order to prepare proposals for updating labor REGMPE, Brasil-BR, V.3, N°1, p. 44-64, Jan./Mar.2018 <http://www.regmpe.com.br>

Analysis of the Influence of Brazilian Labor Legislation on the Management of Private Companies

relations, with a deep modernization of related legislation and other aspects in force until then. This survey resulted in the establishment of consolidated guidelines, finalized and disclosed in 2001, with its elaboration process structured as follows:

Figure 1 - Procedures for preparing FIRJAN's proposals



Source: FIRJAN (2001)

After the research was completed, the FIRJAN Presidency instituted the Technical-Jurist Commission to make the presented guidelines viable, transforming them into legislative proposals.

After evaluating the proposals, the commission sought to structure a complete and organic model that would regulate labor relations in an isonomic way; preserve social rights for non-unionized (non-affiliated) workers and explain which rights would not be the subject of collective bargaining; that it be a single instrument, avoiding sparse regulation and reducing privileges and legal maneuvers; to establish flexible dispositive rules, facilitating extralegal agreements, when they do not agree with the legal text and; to establish a separation between individual and collective labor relations, explaining the similarities of each relationship and not overlapping the rights already established.

In order to implement the reforms, the Commission considered it necessary to elaborate a Draft Constitutional Amendment to modify the wording of arts. 8 and 114 of the CF / 1988, thus revising the Brazilian union structure, and two draft laws: the first, based on the PEC proposal, which provided for collective labor relations, union organization, collective bargaining, the right to strike and that revokes provisions of the CLT, thus unifying the regulation of the matter. The second, to provide for the creation of Conciliation Commissions, which would act extrajudicially in an attempt to resolve labor disputes and which precede the

filing of a complaint. Furthermore, the said Commission considered it unnecessary to modify the text of art.

To make the PEC and the first PL proposal feasible, FIRJAN initiated a process of articulation with the congressmen in order to obtain support and agreement on the merits of the proposals. Regarding the second PL proposal, it achieved an objective with the sanction of Federal Law No. 9,958, of January 12, 2000, thus not being the object of the institution's proposal.

2.2.2 ANAMATRA's proposal

The National Association of Labor Justice Magistrates (ANAMATRA), an institution that brings together the country's labor judges, started in 1994, at the V National Congress of Labor Justice Magistrates (V CONAMAT, in Porto Alegre), a series discussions on the reform of Brazilian labor law.

The institution entrusted the 24 AMATRAS (Regional Associations of Magistrates) to debate and elaborate proposals in order to meet the needs and challenges found locally regarding the labor rule. Thus, in 2005, 9 years after the beginning of the discussion, the Association concluded the process and compiled the most diverse suggestions presented, constituting the propositions that suggest changes in the set of rules that regulate labor relations in Brazil and presented them to legislators and constituted powers of the State as well as to the various forums for reform and revision of labor legislation, seeking to assist in the debate on this topic.

Due to its connection with members of the Judiciary, the Association's proposals also review the way in which Labor Justice acts in resolving labor lawsuits and in terms of facilitating access to justice by those involved in the most diverse labor activities. Since they are organized into nine axes, the proposals suggest changes regarding the following themes:

Figure 2 - Axes of action of ANAMATRA's proposals

1. DESENVOLVIMENTO E EMPREGO
2. EQUILÍBRIO NO CONTRATO DE TRABALHO
3. CONTRATAÇÃO COLETIVA
4. REESTRUTURAÇÃO SINDICAL
5. SUBSTITUIÇÃO PROCESSUAL
6. EFETIVIDADE DO PROCESSO
7. SOLUÇÕES ALTERNATIVAS DE CONFLITOS
8. ACESSO À JUSTIÇA
9. AMPLIAÇÃO DE COMPETÊNCIA

Source: Elaborated by the author (2014) based on data from ANAMATRA (2005)

As stated in its Political-Institutional Agenda for 2012, ANAMATRA acts in the fight for rights and seeks to collaborate with the construction of a more agile, accessible, effective and committed Judiciary Power in the defense of social and labor rights (ANAMATRA, 2012). In this way, it lists proposals that guarantee a reduction of bureaucratization of the labor legal regulation, facilitating labor relations and that benefits employees, employers, class entities and labor justice, by modernizing the legislation and assisting in the resolution of conflicts.

As an active figure in the defense, promotion and proposition of actions and projects of a social nature, the Association presents to the main formulators and articulators of public policies in Brazil the vision and collaboration of labor magistrates on the fundamental social components linked to the labor struggle, and that, in the perception of its members, should be revised for hindering activities and working relationships.

2.2.3 CUT's proposal

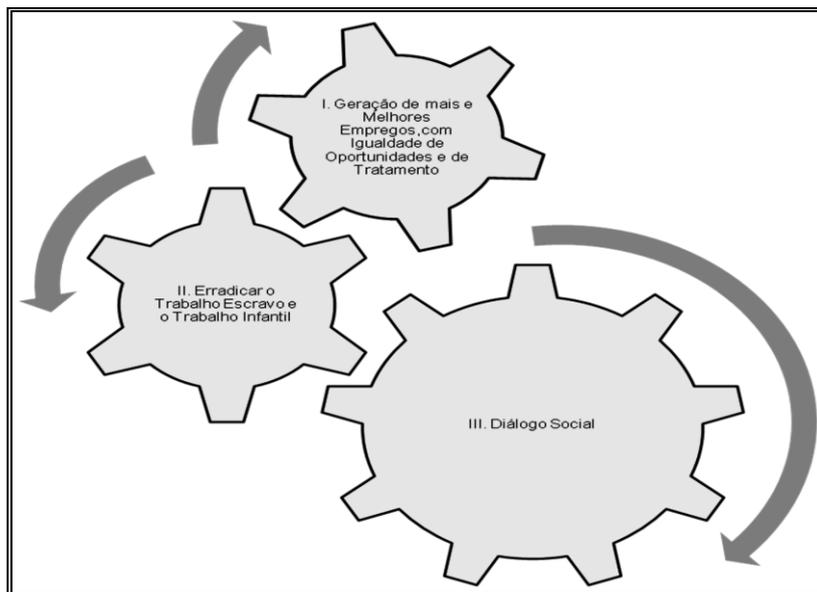
Historically, the Central Única dos Trabalhadores (CUT) has always worked for more and better jobs, in order to guarantee dignity and quality of life for the country's working class (CUT, 2012).

In 2012 the institution launched the booklet entitled Decent Work in the CUT strategy, which seeks to guide the working class about their rights and instill in it the spirit of struggle for changes in the rules and norms that govern labor relations, addressing debates rights, employment, social protection and social dialogue. It served as a subsidy to CUT activists who were preparing, in regional instances, for the 1st National Conference on Decent Work, held in May 2012 and which sought to discuss with the Central bases about the opportunity to expand rights and changes that democratize labor relations in Brazil (CUT, 2012).

Furthermore, even with the failure of the Conference, the proposals defended in the subsidy remain as the institution's struggle flag (SAKAMOTO, 2012).

A series of proposals defended by the entity are abstracted from this document and, being organized in three basic guidelines that are subdivided into areas of activity, list a series of changes in the current regulation of labor relations and propose the creation of new standards, for guarantee the rights and the equality of conditions to all actors of work. These proposals are structured as shown in Figure 3:

Figure 3 - Basic guidelines for CUT proposals



Source: Elaborated by the author (2014) based on CUT data (2012)

It can be seen that the guidelines now advocated seek to strengthen the performance of the working class, through the formalization of proposals that enable qualified and uniform policies and that dignify the work of employees, that combat forms of oppression, degradation and disqualification of work and that allow democratic participation with society, in the defense of rights, formulation of proposals and control of state action in the various segments.

2.4.4 CNI proposal

The National Confederation of Industry (CNI) elaborated, based on the recognized difficulties faced by the Brazilian labor system about the challenges to maintain economic growth and its social transformation, as well as those based on the rigid legal system and with little openness for negotiation and which does not meet to the needs of contemporary Brazilian society, a set of proposals for labor modernization, selecting 101 problems that can be reflected in costs, bureaucracy, legal uncertainty, restrictions on productivity, as well as difficulties for workers and for the State itself.

Mapped and analyzed these negative points, 101 solution proposals were built, the gains were evaluated and the necessary measures were defined for their implementation. With the aim of bringing to society, companies and political and institutional actors a set of information that allows a better knowledge of reality and its possibilities for improvement, the institution sought to develop balanced and feasible proposals, preserving the discussion on protection and the rights of employees and employers, since it considered that the proposals are inserted as an instrument of constructive and transparent dialogue, capable of generating consensus and actions that are crucial to the necessary progress, benefiting everyone.

In this way, the document 101 Proposals for Labor Modernization was presented to the federal Executive proposing the replacement of the current labor legislation, the revocation of the Superior Labor Court's summary in favor of workers and suggests the flexibility or reduction of labor rights, with a proposal for amendment in the Constitution and infraconstitutional legislation, notably in the CLT (DIAP, 2012).

The propositions were built based on lines of action: the valorization of the negotiation processes between employee and employer; establishing clear, safe and fair rules for everyone involved in the work; solutions for increasing productivity, through promotion actions; actions aimed at reducing the risks associated with hiring, transferring these charges to social security; exemption from formal work, reducing informality and increasing corporate profitability; reduction of bureaucracy and irrationalities of processes and rules; remove obstacles in granting benefits to workers; actions that encourage pro-employment public policies and; actions that facilitate work performance (CNI, 2012) (DIAP, 2012).

Of the peculiarities surrounding the document, its corporate intent stands out, starting from the identification of situations that could be better addressed from the business point of view; concern about the cost-benefit analysis of the proposals, relating the expected gains to the changes and measures necessary for their implementation; the diversity of topics discussed and the multidisciplinary nature of professionals who worked on the construction of the proposals, with a varied approach and in different degrees of complexity, involving employers and employees' issues related to negotiation, contracts, hours, benefits, ancillary obligations, qualification, health and work safety, social security, labor inspection, Labor Justice, social and productive inclusion and bureaucratic processes, among others; and finally,

3 METHODOLOGICAL PROCEDURES

The search for purposes was exploratory, which investigated information from the existing theoretical framework, and of a descriptive nature, since, from the exploratory

Analysis of the Influence of Brazilian Labor Legislation on the Management of Private Companies

research, sequentially the present study described characteristics of the phenomenon related to the difficulties imposed by the standard management of private companies.

As for the means, the research is classified as bibliographic, by using the bibliographic theoretical framework available in the databases, physical and digital (of which: Scielo, UFSC Journals, Legal Scope), and for seeking to explain the problem in the light theoretical references published in books, articles, theses and dissertations, and documentary, when analyzing different proposals already constituted, from various representative bodies of civil society, which propose modifications to reduce the influence of labor legislation on the management of private companies. The proposals of CNI, ANAMATRA, IPEA, FIRJAN, CUT and DIAP were analyzed, as well as the collection of current legislative information available in the database of the Legislation Portal of the Federal Executive Branch of Brazil (Portal Planalto).

Initially, data collection took place through a search directed at the topic, in digital databases, in order to locate the information necessary to reach the definitions. Information about this action was found with the CNI, Fecomércio / SP, ANAMATRA, CUT and FIRJAN.

Subsequently, the Superior Labor Court, the Federation of Industries of the State of São Paulo (FIESP), the Chamber of Labor Relations of FIESC, the Labor Council of FIERGS and the Council were contacted by email (email). FIRJAN's Corporate Social and Labor Policy so that, having a proposal to change the labor legislation that impacted business management, they could present it in order to compose the research. Of these, only the FIESC Labor Relations Chamber returned, indicating the same proposal found with CNI and which had previously been selected.

After collecting the information, it was determined that for this research, the proposals of FIRJAN (2001), ANAMATRA (2005), CUT (2012) and CNI (2012) would be analyzed, due to the 14 areas of influence covered in the proposals, which are : collective bargaining, work contract, working hours, benefits, professional and labor qualification, health and safety at work and social security, conflict resolution, justice and work processes, social and productive inclusion, union restructuring and professional representation, rights fundamentals, outsourcing, modernization, innovation and technological development and costs / finances. (Table 3 and Table 4).

Table 3 - Definition of proposals for analysis

Proposal / Body	Discourse Analysis
FIRJAN (2001)	For being the oldest proposal and for proposing actions related to union action.
ANAMATRA (2005)	For proposing actions related to the performance of the labor justice bodies.
CUT (2012)	For proposing actions related to the performance of the working class (employees).
CNI (2012)	For proposing actions related to the performance of the employers (companies).

Source: Elaborated by the author (2014).

Thus, in the light of the definitions proposed by Vieira and Zouain (2005) and Gerhardt and Silveira (2009), the qualitative approach of information was used, through the content analysis foreseen and explained in the text of the 1988 Magna Carta and the CLT and later discourse analysis when defining the proposals object of the research by the scope of influence in the management of companies.

4 ANALYSIS OF PROPOSALS

The present study sought to analyze the actions proposed by the literature to reduce the influence of Brazilian labor legislation on the management of private companies. Thus, this chapter presents the result of the analysis of the actions listed by FIRJAN, ANAMATRA, CUT and CNI that propose, based on the realities that are inserted and the social portion they represent, measures to facilitate labor relations and that benefit their audiences. Thus, from the analysis of the four proposals, the following aspects are presented (Table 4):

Table 4 - Summary of proposals analyzed

FIRJAN's proposal	ANAMATRA's proposal	Proposal by CUT	Proposal by CNI
The oldest of the proposals. It proposes changes in three major areas: collective bargaining, labor justice and unions. Of both analyzed proposals, it becomes the most	It also proposes changes in three major areas: labor relations, union reform and labor justice. Of the latter, it presents reforms in the processing and simplification of	Most comprehensive proposal of all evaluated. It proposes changes that permeate the worker's functional life and direct work activity as well as their training, the	Multidisciplinary text, with actions proposed in several areas. It has some peculiarities not presented in the other proposals: it analyzes its proposals legally and financially, presenting the

Analysis of the Influence of Brazilian Labor Legislation on the Management of Private Companies

<p>consistent, as it already presents PEC and PL in its document, as well as legislative justification for them.</p>	<p>processes, creation of work courts and expansion of the duties of its Organs.</p>	<p>modernization of working conditions and the instrumentalization of technological aspects and environmental preservation, ending with social actions related to slave and child labor and social dialogue between the different groups.</p>	<p>consequences of the problem and the ways to solve it, as well as the possible implications. It does not present a proposal for a legislative text, but indicates the necessary legal measure to implement the changes.</p>
--	--	---	---

Source: Elaborated by the author (2014).

Analyzing the propositions, it is clear that each one aims to benefit different audiences, having specific actions to these: from FIRJAN one perceives actions more directed at union action, with the proposition of a PEC amending the arts. 8 and 114 of the Magna Carta (which deal with the subject), in addition to the proposed Bill that regulates collective labor relations, defended and promoted by the various union associations; ANAMATRA distinguishes themes more linked to the legal scope of labor relations, in the areas of labor lawsuits, conflict resolution, access to justice and expansion of the competences of the Labor Justice bodies; CUT presents the most beneficial proposal to employees, with proposals that reinforce or expand rights or create new benefits. Still, discusses problematic social issues that still persist in the country and cause damage to society, of which slave labor, the exploitation of child labor and the social and democratic freedom of association and popular participation and, finally, CNI has the propositions that are more directed to the employers' class, with proposals that seek to modify irrationalities identified from this point of view, but without depriving or extinguishing any rights of the working class, more equating them in order to facilitate business management and encourage the growth of companies and the country. Punctually as to the influence of the propositions in the different managerial areas of the company, the proposals reach the following aspects: the exploitation of child labor and the social and democratic freedom of association and popular participation and, finally, from CNI, we have the proposals most directed to the employers, with proposals that seek to modify irrationalities identified from this point of view, but without depriving or to extinguish any rights of the working class, but to resolve them in order to facilitate business management and foster the growth of companies and the country. Punctually as to the influence of the propositions in the different managerial areas of the company, the proposals reach the following aspects: the exploitation of child labor and the social and democratic freedom of

Analysis of the Influence of Brazilian Labor Legislation on the Management of Private Companies

association and popular participation and, finally, from CNI, we have the proposals most directed to the employers, with proposals that seek to modify irrationalities identified from this point of view, but without depriving or to extinguish any rights of the working class, but to resolve them in order to facilitate business management and foster the growth of companies and the country. Punctually as to the influence of the propositions in the different managerial areas of the company, the proposals reach the following aspects: however, without depriving or extinguishing any rights of the working class, more equating them in order to facilitate business management and encourage the growth of companies and the country. Punctually as to the influence of the propositions in the different managerial areas of the company, the proposals reach the following aspects: however, without depriving or extinguishing any rights of the working class, more equating them in order to facilitate business management and foster the growth of companies and the country. Punctually as to the influence of the propositions in the different managerial areas of the company, the proposals reach the following aspects:

Table 5 - Areas of managerial influence of the proposals

Área de Influência	Proposta n°			
	FIRJAN	ANAMATRA	CUT	CNI
Negociação Coletiva	1	3.1	Eixo I: 8; 10; 11 Eixo III: 3	1
Contrato de Trabalho		2.2		3; 17; 19
Jornada de Trabalho		2.9	Eixo I: 17; 32	4; 5; 6; 8; 9; 10; 11; 12; 13; 75
Benefícios		1.3	Eixo I: 23	42
Qualificação Profissional e Laborativa		1.1; 1.4	Eixo I: 4; 28; 29; 30; 42; 55	22; 41; 70; 71; 72; 73
Saúde e Segurança no Trabalho e Seguridade Social		2.7	Eixo I: 3; 35; 36; 37; 38; 39; 40; 41; 42; 45; 46; 48; 58; 63	35; 36; 37; 38; 39; 40; 41; 51; 62; 63
Solução de Conflitos	4	7.1; 7.2; 7.3	Eixo III: 2; 5	81; 82
Justiça e Processos do Trabalho	2; 3; 5	5.1; 5.2; 6.1; 6.2; 6.3; 8.1; 8.2; 9.1; 9.2; 9.3		76; 77; 78; 79; 80; 83; 84; 85; 86; 87; 88; 89; 90; 91; 92; 93; 94; 95; 96
Inclusão Social e Produtiva		1.2; 2.3; 2.5;	Eixo I: 2; 5; 6; 12; 16; 18; 25; 26; 28; 31; 33; 34; 43; 47; 49; 53; 67 Eixo II: 1; 2; 3; 4; 5; 6; 7; 8; 9 Eixo III: 1; 4; 6; 7; 8; 9	21; 23; 24; 42; 43; 44; 45; 46; 47; 48; 49; 50; 54; 65; 66; 67; 68; 69; 74; 99
Reestruturação Sindical e Representativa Profissional	6; 7	4.1; 4.2; 4.3; 4.4	Eixo I: 7; 9; 13; 14; 15	14
Direitos Fundamentais		2.1; 2.4; 2.6	Eixo I: 1; 21; 22	7; 15; 16; 25; 26; 27; 28; 29; 30; 31; 32; 33; 34; 57; 58; 59; 60; 61; 64; 97
Terceirização		2.8	Eixo I: 18; 27	18; 20
Modernização, Inovação e Desenvolvimento Tecnológico			Eixo I: 50; 51; 52; 54; 56; 57; 59; 61; 66	52; 53; 98; 100; 101
Custo/Finanças				55; 56

Source: Prepared by the authors (2014)

O Table 5 presents the different areas of influence of business management covered by the analyzed proposals. However, it is emphasized that not all proposals share the same opinion and positions on the topic.

Analysis of the Influence of Brazilian Labor Legislation on the Management of Private Companies

Regarding collective bargaining, all four proposals defend and suggest the revision of legal rules to strengthen and enhance this practice. In terms of employment contracts, the institutions differ from one another: while the CNI proposes an extension of the terms of conventions to collective agreements, a flexibility in the work regime and the possibility of granting temporary benefits diffused from those granted to permanent staff; ANAMATRA is totally opposed to any changes in the current work hiring practice. As for the workday, the proposals of ANAMATRA (2.9) and CUT (17) converge to reduce the workday, while both diverge from the CNI proposal that proposes to maintain the current 44 hours per week, distributed over 5 days,

Regarding the benefits, the proposals propose actions that are not correlated with each other: ANAMATRA proposes an improvement in the unemployment insurance policy; the CUT advocates an increase in the values of benefits from social programs, with a focus on social inclusion and safeguarding the most vulnerable sectors; CNI, for its part, proposes new measures for the partial maintenance of the Continuous Payment Benefit (BPC) in order to encourage the entry of people with disabilities into the market.

Both ANAMATRA, CUT and CNI converge their proposals in order to guarantee, in the different segments (company, society, government, educational institutions), professional and labor qualification to the worker, proposing that mechanisms to promote the first job be instituted and professional qualification, that financial resources are guaranteed to subsidize these actions through the transfer to organizations or through specific programs of federal agencies institutionally responsible for these activities.

In terms of health and safety at work and social security, both proposals defend the maintenance of numerous aspects already constituted, proposing various forms of modernization and adaptation of these to the social and labor reality that is presented, not diverging and complementing each other.

It is unanimous among the 4 proposals, the creation and institution of mechanisms that facilitate the solution of conflicts, through the creation of spaces for prior conciliation between the parties, in addition to the institutionalization of the spaces that foster this form of solution, avoiding wear on the parties in maintenance of endless lawsuits.

There is also a need for modernization of procedures, procedural and judgment forms, as well as the entire structure of justice and judicial labor proceedings. This aspect is defended in different ways, actions and situations, by FIRJAN, ANAMATRA and CNI in their proposals. Regarding the aspects of social and productive inclusion, the proposals of ANAMATRA, CUT and CNI converge in proposing actions that guarantee the social

Analysis of the Influence of Brazilian Labor Legislation on the Management of Private Companies

inclusion of work for people of African descent, migrants, disabled people, ex-prisoners, young people in their first job, elderly, with the adoption of policies to welcome this population, as well as the preservation of profit and results sharing programs, proposing adaptations for their full functioning. In addition,

FIRJAN, ANAMATRA, CUT and CNI present proposals that propose a professional and representative union restructuring, converging their proposals in the defense of an urgent modernization of the legal framework that regulates union activity, its constitution, structure and associative form of conception, in view of the time lag of these rules.

The proposals regarding fundamental rights are specific to each body: ANAMATRA, more generally, defends the rejection of any proposals that imply the reduction of collective rights, I encourage individualism and weaken the worker (2.1) as well as that they are guaranteed fully the rights already provided for by law (2.4 and 2.6). The CUT, being more punctual, defends the institutional maintenance of the minimum wage (1), the institution of paternity leave of 180 days after maternity leave (21) and the family allowance for adoptive mothers and informal workers (22). CNI, on the other hand, broadens the debate, pointing out changes regarding the hour bank negotiation (7); proposes the complete revocation of the warning (15), the 15-minute break for women before overtime (16), the minimum wages and minimum state and regional floors (25), the social security contribution on the indemnified prior notice (57), the payment of the INSS contribution on sick leave days (58), the additional indemnity for the employee dismissed in the 30-day period preceding the date of his salary correction (60), dangerous and unhealthy work additional from the social security contribution base (61) and FGTS payment during the military service period (64); in addition to proposing changes in the FAT (26 and 27), in the ways of collecting social security contributions (28), in transport / travel assistance (29), in the concession and enjoyment of holidays (30) and in those related to the pregnant employee and their benefits (31 to 34), as well as to propose the reduction of FGTS rates for MSEs (59) and the extension of the CTPS return period for the employee (97).

ANAMATRA and CUT defend the extinction and the fight against any type of outsourcing, pointing out that this practice makes work precarious and encourages informality. This position differs from the CNI, which proposes actions to differentiate and allow practice in organizations.

Both CUT and CNI present actions that defend modernization, innovation and technological development in organizations. The first, proposing comprehensive policies to promote innovative models, with investment in the technological area, integration of

knowledge, incentive to scientific research and defense and protection of the environment as a way of guaranteeing the subsistence and quality of life of society. In turn, the CNI points out more specific practices such as the modification of the rules for external work and the use of machines and equipment, in addition to the revocation of the mandatory electronic point, the transfer to the employees of the INSS social security information by the agency itself and adoption of the electronic work card.

Thus, after analyzing the proposals, it appears that they sometimes converge in notes focused on the same area but at the same time they diverge by pointing out different ways of solving the same problem, sometimes the proposals do not come to consensus, because in the same area influence they point to the same problem, but indicate opposite resolutions. This incompatibility occurs, mainly, due to the paradigm to which they are based, considering that its formulators act in the defense and promotion of different audiences that, even if interconnected, sometimes do not compact positions.

5 FINAL CONSIDERATIONS

Completed the historical contextualization of the emergence of the Brazilian legal framework and, in particular, labor standards; identified the main legal aspects that, in different ways, impact on the management of private companies and, finally, after mapping action proposals that suggest changes in the labor law, seeking to reduce these impacts, a detailed analysis of the proposals defended by FIRJAN is presented (2001), ANAMATRA (2005), CUT (2012) and CNI (2012).

The analysis was carried out through the revision of their speeches and the crossing of their propositions regarding the influence in numerous areas of business management. The eminent and urgent need to review the legislation that governs labor relations in Brazil is abstracted from this problem, which, even before the “modernization” brought in 1988 by the Political Charter, is still stuck in the 1940s, when the promulgation of the CLT, and far to overcome the challenges that are evident.

Based on different authors and proposals for analyzed actions, it is possible to affirm that in the relationship between employer and employee, discussions, questions and debates about the rights and duties of the parties are constant, whether they are individual or collective, reciprocal to each other or not. Of this characteristic, Costa (2011) highlights, when listing the interpretative principles of the labor legal norm, that in most cases the employee's right becomes the employer's obligation, whereas the reverse does not occur so often. This imbalance, added to the recognized need to reconcile economic development with

Analysis of the Influence of Brazilian Labor Legislation on the Management of Private Companies

social cohesion and environmental sustainability (CNI, 2012), constitutes the main motivator for the presentation of proposals by agencies of social action, such as those analyzed in this instrument,

Even with divergences and oppositions in their proposals, both proposals, in defending their interests, do not propose the extinction of rights, but seek to add to the debate a focused analysis about the obligations and duties imposed on the working classes when the unbridled creation of rights and obligations for both employers and employees.

After completing this research and inserting it into the social reality in which labor relations occur, a paradox results: the problem caused to the management of private companies through labor legislation is not in its omission, but in its excessive regulation and standardization imposed by it. This excess of formalism, linked to the social dynamism that is experienced today, causes the legal letter to be temporarily lost, becoming more and more obsolete and retrograde. Thus, it appears that at a time when labor relations change at an accelerated pace, labor law and its relations move slowly, and this interstice affects the management of organizations, as it results in laws currently being questioned.

At the same time, the research now concluded presents itself as a portion of a universe of subjects, themes and problems still subject to improvement, investigation and contributions, thus becoming a reference base for further research and studies, which will improve it.

REFERENCES

ASSIS, Roberta Maria Corrêa de. The constitutional protection of the worker. Senate Research and Research Center. 2013; 127: 1-17.

NATIONAL ASSOCIATION OF LABOR JUSTICE MAGISTRATES. Political-Institutional Agenda ANAMATRA 2012. Brasília: ANAMATRA, 2012. 124 p.

_____. Participation of the labor magistracy in the regional labor law reform forums: suggested topics. [SI]: ANAMATRA, 2005. 8 p.

BENVENUTI, Patrícia. The two sides of CLT, the Brazilian labor law. *Pressenza*, São Paulo, May. 2013. Available at: <<http://www.pressenza.com/pt-pt/2013/05/as-duas-faces-da-clt-a-lei-trabalista-brasileira/>>. Accessed on: 24 oct. 2013.

BRAZIL. Consolidation of Labor Laws (CLT). Citizenship and Justice Section. 2013. Available at: <<http://www.brasil.gov.br/cidadania-e-justica/2012/03/consolidacao-das-leis-do-trabalho-clt>>. Accessed on: 20 out. 2013.

_____. Decree-Law no. 5,452, of May 1, 1943 - Consolidation of Labor Laws (CLT). Legislation Portal of the Federal Executive Branch of Brazil. 2014. Available at: <http://www.planalto.gov.br/ccivil_03/decreto-lei/lei5452compilado.htm>. Accessed on: 24 oct. 2013.

Analysis of the Influence of Brazilian Labor Legislation on the Management of Private Companies

_____. Constitution of the Federative Republic of Brazil, 1988. 2013. Portal of the Legislation of the Federal Executive Branch. 2014. Available at: <http://www.planalto.gov.br/ccivil_03/decreto-lei/del5452compilado.htm>. Accessed on: 24 oct. 2013.

BULOS, Uadi Lamêgo. Annotated Federal Constitution. 8. ed., Rev. and current. until EC n. 56/2007. São Paulo: Saraiva, 2008. 1596 p.

CARLIN, Everson Luiz Breda. Tax auditing, planning and management. Curitiba: Juruá, 2008. 132 p.

CARVALHO, Kildare Gonçalves. Legislative technique. 4. ed. rev. current. and ampl. Belo Horizonte: Del Rey, 2007. 295 p.

SINGLE WORKERS 'CENTRAL. Towards the National Conference on Decent Work: state meetings continue this weekend. News, Oct. 2011. Available at: <<http://www.cut.org.br/acontece/21415/rumo-a-conferencia-nacional-do-trabalho-decente-encontros-estaduais-continuam-neste-final-de-semana>>. Accessed on: 03 abr. 2014.

_____. Decent work in the CUT strategy. [SI]: 2012. Available at: <<http://www.cut.org.br/publicacoes/3/cartilhas>>. Accessed on: 03 abr. 2014

CHIAVENATO, Idalberto. People management: the new role of human resources in organizations. 3. ed. Rio de Janeiro: Elsevier, 2008. 589 p.

CODA. Alexandra. The structuring of the Judiciary in Brazil Empire: criminal law and labor issues. Magazine of the Student Body of the Graduate Program in History at UFRGS. 2009; 2: 70-80.

NATIONAL CONFEDERATION OF INDUSTRY - CNI; FEDERATION OF INDUSTRIES OF THE STATE OF TOCANTIS - FIETO. Bureaucracy and Tocantins' industry. Palms, out. 2012. Available at: <<http://www.fieto.com.br/DownloadArquivo.aspx?c=8c6cf7dc-a7b0-48d8-85e8-1d298d673287>>. Accessed on: 24 oct 2013.

NATIONAL CONFEDERATION OF INDUSTRY - CNI. 101 proposals for labor modernization. Brasília: CNI, 2012. 140 p.

COSTA, Alessandro Cabral. Historical evolution of labor legislation in Brazil - interpretation and application. Artigonal, São Paulo, abr. 2011. Available at: <<http://www.artigonal.com/doutrina-artigos/evolucao-historica-da-legislacao-trabalhista-no-brasil-interpretacao-e-aplicacao-4643397.html>>. Accessed on: 22 out. 2013.

INTERSINDICAL DEPARTMENT OF PARLIAMENTARY ADVISORY - DIAP. 101 CNI proposals for the world of work. [S. l.]: DIAP Agency, ten. 2012. Available at: <http://www.diap.org.br/index.php?option=com_content&view=article&id=21403:as-101-propostas-da-cni-para-o-mundo-do-trabalho&catid=45:agencia-diap&Itemid=204>. Accessed on: 05 abr. 2014.

FEDERATION OF THE INDUSTRIES OF THE STATE OF RIO DE JANEIRO - FIRJAN. FIRJAN's proposal for the Democratization of Labor Relations. [S. l.]: FIRJAN, 2001. 28 p.

GERHARDT, Tatiana Engel; SILVEIRA, Denise Tolfo (Orgs.). Research Methods Porto Alegre: Editora da UFRGS, 2009. 120 p.

GIAMBIAGI, Fábio. Public finances. 3. ed. Rio de Janeiro: Elsevier, 2008. 501 p.

Analysis of the Influence of Brazilian Labor Legislation on the Management of Private Companies

MEDEIROS, Fernanda Luiza Fontoura de. The democratic principle in the Brazilian legal system. Jus, São Paulo, Jul. 2000. Available at: <<http://jus.com.br/artigos/62/o-principio-democratico-no-ordenamento-juridico-brasileiro>>. Accessed on: 24 oct. 2013.

MELO, José Tarcízio de Almeida. Brazilian constitutional law. Belo Horizonte: Del Rey, 2008. 1388 p.

MENEGUIN, Fernando. How do laws and the judiciary affect the economy ?. Brazil-Economy-Government. São Paulo, Feb. 2011. Available at: <<http://www.brasil-economia-governo.org.br/2011/02/13/como-as-leis-eo-poder-judicario-afetam-a-economia/>>. Accessed on: 24 oct. 2013.

THE STATE OF SAO PAULO. Successful entrepreneurs answer what is the biggest challenge for small business today. São Paulo, Oct 4 2013. Available at: <<http://pme.estadao.com.br/noticias/noticias,empreendedor-de-sucesso-respondem-qual-eo-maior-desafio-do-pequeno-negocio-atuais,3511,0.htm>>. Accessed on: 23 nov. 2013

ONGARATTO, Vinícius. Flexibility of labor standards: A discourse on the problem of social charges from the employer. Legal Scope, Rio Grande, XIII, n. 83, Dec 2010. Available at: <http://www.ambito-juridico.com.br/site/?n_link=revista_artigos_leitura&artigo_id=8809&revista_caderno=25>. Accessed on Oct. 22 2013.

PAULA, Ana Paula Paes de. For a new public management. Rio de Janeiro: Editora FGV, 2007. 187 p.

PENNA, Paulo Camilo Vargas. Changing labor legislation is the new government's biggest challenge. Newspaper. São Paulo, December 29 2010. Available at: <<http://www1.folha.uol.com.br/fsp/mercado/me2912201025.htm>>. Accessed on: 21 out. 2013.

PEREIRA, Juliana Maria Chaves de Lima. Specific principles of labor law and its application today. Total gift. 2009. Available at: <<http://www.domtotal.com/direito/pagina/detalhe/23872/principios-especificos-do-direito-do-trabalho-e-sua-aplicacao-na-atualidade>>. Accessed on: 04 abr. 2014.

SAKAMOTO, Leonardo. Decent Work Conference ends wistfully. [Ps]: ago. 2012. Available at: <<http://blogdosakamoto.blogosfera.uol.com.br/2012/08/13/conferencia-de-trabalho-decente-termina-de-forma-melancolica/>>. Accessed on 03 Apr. 2014.

VASCONCELLOS, Helena Cristina de Souza. The importance of principles in labor law. JurisWay, Jun. 2013. Available at: <http://www.jurisway.org.br/v2/dhall.asp?id_dh=11133>. Accessed on: March 22, 2014.

VERGARA, Sylvia Constant. Projects and research reports in administration. 12. ed. São Paulo: Atlas, 2010. 94 p.

VIEIRA, Marcelo Milano Falcão; ZOUAIN, Deborah Moraes (Orgs.). Qualitative research in management: theory and practice. Rio de Janeiro: Editora FGV, 2005. 240 p.

VILELA, Janaína Alcântara. The role of labor law and trade unions at the time of the military dictatorship. Legal Scope, Rio Grande, XV, n. 102, Jul 2012. Available at: <http://www.ambito-juridico.com.br/site/?n_link=revista_artigos_leitura&artigo_id=11964>. Accessed on: 06 mar. 2014.