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## THE CRISIS OF BRAZILIAN UNION REPRESENTATION IN THE FACE OF NEW FORMS OF CONTRACTING: A CONSTITUTIONAL AND COLLECTIVE ANALYSIS OF EFFECTIVENESS 'FUNDAMENTAL RIGHTS

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*João Carlos Odenik Junior*



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**Abstract:** The aim of this article is to investigate the crisis of Brazilian trade union representation in the face of new forms of contracting. To this end, it discusses the crisis of trade unionism in Brazil from a historical perspective; it exposes the factors that contribute to the crisis of trade union representation; and it discusses the capacity of trade union bodies to represent and protect the rights of workers in atypical employment relationships. The methodology adopted was qualitative in nature, with the aim of understanding the legal, social and institutional aspects related to the crisis of Brazilian union representation in the face of new forms of contracting. Bibliographical research was the first methodological axis of the work and documentary research was the second, with the aim of examining the legislation and case law pertinent to the subject. It was seen that the current Brazilian trade union model, structured on the pillars of trade union uniqueness and representation by professional category, is no longer compatible with the complexity of the new forms of work and that the labour reform, by extinguishing the obligation to pay union dues, has further weakened the unions' capacity for action, without, however, offering mechanisms for modernization or alternatives for sustainable financing. It was concluded that overcoming this crisis of representativeness requires legislative changes and a reconfiguration of the social role of trade unions and their forms of organization. In order to guarantee the effectiveness of workers' fundamental rights, trade unions need to broaden their representation base, adopt a more comprehensive socio-labor approach and develop innovative strategies to connect with new categories of workers.

**Keywords:** Trade unionism. Labor rights. Protection. Crisis of representation.

## INTRODUCTION

Trade unions face the challenge of adapting to new technologies and new working environments, which requires them to reformulate their strategies for approaching and listening to emerging demands. The fragmentation of labor relations and the physical distance between workers and unions make it difficult to form solid representative links. Without a cohesive collective base, the struggle for decent working conditions is weakened, making workers more vulnerable to precariousness and exploitation.

Therefore, the crisis of Brazilian union representation is not just a question of losing members or financial resources, but mainly involves a loss of relevance in the face of the new dynamics of work. The changing profile of the working class requires a reassessment of the current union structure so that it can broaden its scope, adapt to contemporary demands and fulfill its constitutional role of guaranteeing workers' fundamental rights, even outside the traditional paradigm of employment relationships.

The scope of this study focuses on analyzing the crisis of Brazilian union representation in the context of the new forms of contracting that have emerged in the contemporary labor market, especially after the labor reform instituted by Law No. 13,467/2017. The focus is on the effectiveness of the actions of trade unions in relation to workers who are not part of traditional employment relationships, such as digital platform workers, individual micro-entrepreneurs (MEIs) and the self-employed. The aim is to understand the extent to which the current trade union model, based on unity and representation by category, is capable of including and protecting these new labor figures, considering the legal and structural limits of the Brazilian trade union organization.

The theoretical and analytical scope of the study is restricted to the field of Constitutional Law and Collective Labor Law, with an emphasis on the interpretation of workers' fundamental rights and the social function of trade unions in the light of the 1988 Federal Constitution. The research is centered on the Brazilian context, supported by empirical data, normative documents and decisions of the Supreme Courts, without prejudice to the use of international experiences for comparative purposes. The study does not deal in depth with the organization of employers' unions, nor the role of trade union federations at a party-political level, but is limited to an analysis of the direct representation of workers and their effectiveness in defending social rights in a scenario of growing informality and flexibilization of labour relations.

As the guiding question of the study, we ask: is the current Brazilian union structure, based on unicity and mandatory funding (partially reformed by Law 13.467/17), adequate and sufficient to guarantee the effective protection of workers inserted in new forms of work, especially in so-called "atypical employment relationships", in the face of fundamental constitutional rights and the logic of expanding access to social justice?

In order to answer the proposed question, this study aims to investigate the effectiveness of the current Brazilian union representation system in defending the fundamental rights of workers, especially in the face of new contractual forms of service provision, such as work through digital platforms, individual micro-entrepreneurs (MEIs) and the self-employed, in the light of the Federal Constitution and the logic of expanding access to social justice.

The enactment of Law No. 13,467/17, known as the Labor Reform, brought about significant changes in legislation, including the end of compulsory union dues, which directly affected the funding of representative

bodies. This has led to challenges related to union autonomy, collective bargaining and the legitimacy of current representations, especially when we observe the growing exclusion of large segments of the working class from the formal system of collective protection. This reality requires a critical and constitutional analysis of the current trade union structure, in comparison with the fundamental principles of work and social justice.

The study is therefore justified in view of the profound transformation that the world of work has been facing in recent decades, especially with the advance of technology, the emergence of new forms of contracting and the flexibilization of labour relations. In Brazil, this scenario has made the weaknesses of the traditional trade union structure even more evident, as it finds it difficult to represent workers who do not have a formal employment relationship, such as the self-employed, individual micro-entrepreneurs (MEIs) and digital platform professionals. It is therefore important to reflect on the effectiveness of union representation in this new context and its ability to ensure the fundamental constitutional rights of these workers.

In addition, the study seeks to contribute to the academic and legal debate on the need for modernization and inclusion in the Brazilian trade union model, promoting reflections that can support proposals for public policies, institutional reforms and more democratic practices of collective representation. By investigating the crisis of union representation from the perspective of the effectiveness of workers' fundamental rights, the work seeks to shed light on an issue that is at the heart of the tension between economic progress, constitutional guarantees and dignity at work.

The methodology adopted for this study will be qualitative in nature, with the aim of gaining an in-depth understanding of the legal, social and institutional aspects related to

the crisis of Brazilian union representation in the face of new forms of contracting.

Bibliographical research is the first methodological axis of the work. At this stage, books, scientific articles, dissertations, theses and other academic materials were used, especially those dealing with Labor Law and Collective Law. The documentary research was the second axis of the methodology, aimed at examining the legislation and case law pertinent to the theme addressed.

## **THE CRISIS OF TRADE UNIONISM IN BRAZIL IN HISTORICAL TERMS**

In the 1980s, in countries with older capitalism, researchers from various fields began to notice an unprecedented phenomenon: a decrease in union membership, or in other words, a decrease in union density. In addition to the purely quantitative aspect, there were also other factors that indicated a decrease in the relevance of trade unionism during the period known as the Fordist mode of accumulation. It was a decline in union power. Mattos (2019) points out that recent changes in the structure of capital have had a negative impact on workers' organizations and struggles, evidenced by the decrease in the number of union members and the number of strikes.

At that moment, Brazil was moving in the opposite direction of the world. In fact, the 1980s in the country were characterized by an intense wave of struggles by various labor sectors that shook the conditions of political and social continuity of the authoritarian regime, made possible significant wage readjustments in an economic scenario of high inflation and boosted the creation of large union and political organizations. This cycle has gone down in history not only for its strength, but also for the emergence of what, due to the new trade union pragmatics, has come to be called "new trade unionism" (Farias; Schmitz, 2024).

However, Brazil's different timeframe in terms of global dynamics would soon adjust. The crisis stage of trade unionism in Brazil began in the 1990s, a period also associated with the start of the neoliberal project, driven mainly by the governments of Fernando Collor de Melo and Fernando Henrique Cardoso (Santana, 2024).

At the moment, there is no disagreement about the perception that the last few decades have been characterized by a crisis in Brazilian trade unionism. The disagreements concern its essence. However, for most writers, the crisis of trade unionism is connected to a new global scenario following the economic crisis of the 1970s, marked by the emergence of phenomena that have put global capitalist corporations back into action and destroyed the foundations of the "old" Fordist trade unionism. In the political sphere, neoliberalism; in the economic sphere, productive restructuring, characterized by technical and organizational changes that transformed the "old factories", aimed at mass production, into leaner factories, with a large amount of external work.

When trying to understand the crisis of trade unionism in Brazil, it is clear that there are several factors that contribute to the decline in the unionization rate, as well as the reduction in union power, making it complex to establish their relationships and a hierarchy. According to Farias and Schmitz (2024), these elements can be categorized into two main categories: socio-economic and political-institutional factors. The former concern technological and market elements, while the latter mainly concern the laws governing labor and union activity in each nation.

There are basically three points of view in the debate about the capitalist crisis in Brazil. While recognizing the multiplicity of the phenomenon, each doctrinaire tends to attribute greater importance to one line of explanation.

According to Alves (2002), mere productive reorganization is at the center of the stage. According to Boito Júnior (1999), the core would be neoliberalism and the limitations of state corporative unionism, which still remain as vestiges of the populist period. According to Antunes (2018), the main reason is the change in the political stance of union leaders, who have swapped confrontational unionism for a unionism of social consensus. This became clear during the Fernando Henrique Cardoso administration and was consolidated during the Lula and Dilma Rousseff administrations, driven by the political purposes of the Workers' Party (PT), especially the Central Única dos Trabalhadores (CUT), which is controlled by that party.

According to Ladosky and Rodrigues (2018), CUT unionism during the PT governments combined grassroots actions with institutional participation. However, the authors state that although institutional participation has led to achievements, it has also represented a restriction.

Boito Júnior and Marcelino (2010) experienced a change in the line of research after 2013. The debate on the crisis gave way to a possible recovery of union protagonism, based on an increase in the number of strikes, which reached a high point in 2016. However, the "recovery" did not prevent Michel Temer's government from approving the labor reform in 2017, which, among other things, eliminated the union tax, which was seen as a direct attack on unionized movements. However, the lack of union protagonism, especially in the June 2013 demonstrations, highlights the challenges of this thesis (Cavallini, 2017).

In addition, unionization rates in Brazil have fallen since 2016, as have the number of strikes. The decrease in the rate can be attributed to the emergence of new ways of hiring salaried work disguised as service contracts, such as delivery workers, app drivers and

other workers who are legally self-employed, as well as the increase in informal work (Bridi; Braga; Santana, 2018).

So it seems that the connection between the transformations in the labor landscape and the crisis of trade unionism is evident, especially with regard to the prominent political role of trade unionism and the construction of a comprehensive panorama to understand the phenomenon. However, there is a lot of data that does not support this direct perspective, making the connection between the crisis of trade unionism and precariousness more complex. This opens up a larger field for trade union intervention as an explanatory element of the crisis, directing the debate towards the topics of organization and mobilization for trade unions.

### **FACTORS CONTRIBUTING TO THE CRISIS OF UNION REPRESENTATION IN BRAZIL**

The progression of the trade union crisis over the years seems to suggest a gradual weakening. However, the logical precedent was the decision by companies and governments to abandon negotiations, removing unions from the table and at no time hesitating to resort to the manipulation of public opinion and often the use of force. The transition model did not allow for concessions. The resistance of the trade union movement was not suited to conservative bourgeois neo-radicalism and harmful productive restructuring (Santana, 2024).

The figures for unionization indicate that sectors that can be categorized as precarious, such as the informal sector of the economy and formal sectors that are commonly outsourced (*telemarketers*, cleaning and maintenance services, among others) have a lower unionization rate than the national average (Galvão; Krein, 2019).



During the period from 2003 to 2013, there was a decrease in union density, even though jobs were created. This is mainly due to the particularities of the jobs created, especially in areas with little union tradition, such as commerce and construction. Therefore, changes in hiring methods affect unionization (Alcantara e Silva; Krein, 2015).

The disparity observed in Brazil occurred during the crisis and also in the ways of reacting. After identifying the crisis in other countries, trade unionism quickly focused on organizational aspects as a solution to the crisis. In Brazil, this discussion remained at the macro level of discussions about conceptions of the state, the economy and even trade unionism, i.e. at the structural level. In the practical sphere of action, i.e. in conversations between trade unionists, this problem has only been dealt with in terms of complaints and criticisms, without, however, looking for alternatives that can effectively combat the crisis.

In Brazil, by analyzing particular cases of union action and the structural conditions specific to state sectors and the economy, Farias and Schmitz (2024) conclude that the theories of structural transformations, although pertinent, fail to understand the complexity and inequality of the phenomenon. Furthermore, one of the paradoxes of the structural model would be the proliferation of unions during the crisis.

Despite the historically lower level of membership, the number of unions and union centers has grown in recent years, possibly driven by disputes between sectors and political parties, and undoubtedly because unions are still the legal and legitimate means of hiring workers in Brazil. This information suggests that trade unionism is increasingly fragmenting into micro-unions, which is a component of the crisis that is not directly related to the precariousness of labor relations or to neoliberalism. Cardoso (2015) identified this pheno-

menon, associating the loss of members with the oligarchy of grassroots unions. Since Brazilian law, including the 1988 Constitution, requires the existence of a union and, until 2017, provided for a fixed source of funds for its maintenance, low union membership favored the perpetuation of the leadership, since the material support of the union was not based on member contributions.

One element of reality that refutes the notion of a union crisis caused by macroeconomic changes is the financial strength of certain unions, along with the corruption that this wealth generates. This was evident, for example, in the case of the São Paulo bus drivers' unions, which was widely publicized in the country's print and television media (Farias; Schmitz, 2024).

There are still disparities in the level of implementation of the flexible accumulation method in various sectors of the economy. Although some scholars argue that this new scenario has led to state reforms that have made labor relations in the sector more precarious, this situation is not considered to be common (Farias, 2022).

It is clear that the deterioration of the labour market has had an impact on the ability of unions to mobilize and resist the labour reform, but there are other elements that influence this process. The central unions did not reach an agreement on the meaning of the reform, which contributed to a certain weakening of collective action during the process.

The tactics varied between total rejection of the proposal, encouraged by social mobilization, and (or) negotiation with Congress and the Temer government, with the aim of maintaining the conditions that make it possible for unions to survive. With the support of other union centrals, Força Sindical bet on the negotiation tactic, confident that the union entity would be maintained (Colombi; Lemos; Krein, 2018).

With regard to financial resources, three changes that have taken place since 2017 are compromising the conventional sources of funding for trade unions: 1) the Supreme Court ruled that trade unions do not have the right to demand assistance contributions from workers who are not union members. The decision on the matter came on the eve of Carnival 2017, during the reform's passage through Congress; 2) the reform made compulsory union dues optional, and the constitutionality of this decision was confirmed by the Supreme Court in 2018; and 3) Provisional Measure 873/19, published on the eve of Carnival 2019, required employees to authorize, individually and in writing, the disbursement of any contribution to their corresponding union. It also opposed deductions from paychecks and proposed that contributions be collected via bank slips. This change had an impact on all forms of financing, including membership fees (Galvão *et al.*, 2019).

The STF questioned the constitutionality of not making union dues compulsory in ADI 5.794/ADC 55<sup>1</sup>, both in formal and material terms. However, the Supreme Court ruled that all the changes made to the CLT were constitutional in all their facets. It is noteworthy that the ADI and ADC ran together and that, at least in jurisprudential terms, the issue of optional union dues was settled.

Having explained the factors contributing to the crisis of union representation in Brazil, the next section will look at the current capacity of unions to represent and protect the rights of workers in atypical employment relationships.

1. EMENTA: CONSTITUTIONAL AND LABOR LAW. LABOR REFORM. OPTIONAL UNION DUES. CONSTITUTIONALITY. NO COMPLEMENTARY LAW REQUIRED. NO NEED FOR A SPECIFIC LAW. NO OFFENSE TO TAX EQUALITY (ART. 150, II, OF THE CRFB). COMPULSORY NATURE OF UNION DUES NOT PROVIDED FOR IN THE CONSTITUTION (ARTICLES 8, IV, AND 149 OF THE CRFB). NO VIOLATION OF THE AUTONOMY OF TRADE UNION ORGANIZATIONS (ART. 8, I, OF THE CRFB). NO SOCIAL SETBACK OR ATTACK ON WORKERS' RIGHTS (ARTICLES 1, III AND IV, 5, XXXV, LV AND LXXIV, 6 AND 7 OF THE CRFB). CORRECTING THE EXCESSIVE PROLIFERATION OF UNIONS IN BRAZIL. REFORM AIMED AT STRENGTHENING UNION ACTIVITY. PROTECTION OF THE FREEDOMS OF ASSOCIATION, UNIONIZATION AND EXPRESSION (ARTICLES 5, ITEMS IV AND XVII, AND 8, CAPUT, OF THE CRFB). GUARANTEE OF FREEDOM OF EXPRESSION (ART. 5, IV, OF THE CRFB). DIRECT ACTIONS OF UNCONSTITUTIONALITY DISMISSED. DECLARATORY ACTION OF CONSTITUTIONALITY UPHOLD" (SUPREME FEDERAL COURT. ADI 5794. Rapporteur: Justice Edson Fachin. Judged on: 04.22.2019).

## THE CURRENT CAPACITY OF TRADE UNIONS TO REPRESENT AND PROTECT THE RIGHTS OF WORKERS IN ATYPICAL EMPLOYMENT RELATIONSHIPS

After a period of prosperity from 2004 to 2014, the trade union movement in Brazil is once again facing challenges. The economic and political crisis that has gripped the country since 2015 has worsened the working conditions of the less privileged classes (Galvão; Marcelino, 2018). The Temer and Bolsonaro governments, through their austerity policies and the offensive against social and labour rights, have changed the trends of job creation and formalization that had previously been discussed, weakening trade unions.

The approval of the labor reform in 2017 accelerated this process, since the expansion of precarious work arrangements encourages the division of union representation at the grassroots level. The reform also affects the ability of unions to negotiate, allowing individual negotiation of elements of labor relations and the termination of contracts without union intervention. Its anti-union nature is evidenced by the formation of committees to represent employees in the workplace, competing with the unions. Finally, the reform affects their finances, making the collection of union tax conditional on the employee's prior permission (Galvão *et al.*, 2017)

The crisis in Brazilian union representation reflects the structural exhaustion of the traditional model for organizing workers in the face

of profound changes in labour relations. Historically, trade unionism in Brazil was built on a corporatist system, based on union unity and compulsory funding, established during the Estado Novo period. This model, as Delgado (2020) points out, concentrated workers' representation in rigid, undemocratic legal structures that were far removed from workers' social and economic realities, which has been aggravated by the new forms of contracting that challenge the classic criteria of employment.

The emergence of so-called "atypical employment relationships" - such as app workers, individual micro-entrepreneurs (MEIs) and self-employed service providers - breaks with the logic of the standard employment contract, making it difficult for them to be included in existing union structures. According to Freitas (2023), the professional category, as the basis of trade union organization, is becoming insufficient to encompass the multiple working identities emerging from the post-industrial world, requiring a broader and more flexible socio-labour representation, in line with the new configurations of work. The segmentation and fragmentation of employment relationships makes the rigidity of formal union categories obsolete.

In this context, the 2017 labor reform, which abolished compulsory union dues, intensified the fragility of representative entities. According to Martins (2024), the withdrawal of compulsory funding without a restructuring of the union system drastically compromised the unions' operational capacity, affecting their function of collectively defending workers' rights. The measure dismantled the already weakened trade union movement, without offering alternatives for renewal or adaptation to the new reality of informalized and digitalized work.

The constitutionality of union representation, in turn, is under strain in the face of this reality. The 1988 Federal Constitution

establishes trade unionism as an instrument for protecting workers' fundamental rights, as part of the social order of the Democratic Rule of Law. According to Padilha and Bertoncini (2016), the principle of the dignity of the human person, as the foundation of the Republic, imposes on the state and society effective mechanisms to guarantee social rights, which includes trade union action as a collective expression of citizenship in the field of work. The lack of collective protection for a growing portion of the Brazilian workforce therefore compromises the realization of this fundamental principle.

From the point of view of economic and social transformations, the crisis of union representation is also part of a global process of reconfiguring relations between capital and labor. According to Streeck (2019), we are experiencing a period in which states are buying time in the face of structural crises in democratic capitalism, which is reflected in reforms that make rights more flexible in the name of competitiveness, weakening social regulation mechanisms. In Brazil, this movement materializes in the precariousness of work and the dismantling of collective protection bodies, such as trade unions, which are seen more as obstacles to economic growth than as guarantors of social justice.

Criticism of the traditional legal form of trade unionism also reveals limitations in the normative model. As Macedo and Batista (2023) analyze, the legal logic that underpins the Brazilian union system is tied to a formalist conception of representation, based on fixed legal categories and formal employment relationships. This prevents unions from adapting to new labor realities, in which the traditional employment relationship is not clearly defined. For the authors, a critical approach is needed that recognizes the insufficiency of the classic legal form to deal with the plurality of work experiences in the current context.



Trade union action therefore needs to be reframed in the light of the new dynamics of the world of work. According to Lúcio (2021), the future of Brazilian trade unionism depends on its ability to reinvent forms of organization and representation that dialogue with the new collective subjects of work. Overcoming the crisis requires more than one-off reforms: it requires a profound transformation in the way unions relate to workers, society and the state, seeking new channels for participation and institutional strengthening.

The challenges are not only structural, but also political and ideological. Galvão (2021) points out that the crisis of trade unionism is also linked to the dispute over narratives about the role of collective organizations in the current scenario. The valorization of individual entrepreneurship, the deregulation of the labour market and the devaluation of the collective contribute to an environment that is hostile to union organization. At this juncture, unions need to rebuild their legitimacy through a real rapprochement with workers and an agenda aimed at inclusion and the defense of rights.

The 1988 Constitution also provides an important regulatory framework for strengthening union representation by recognizing social and collective rights as essential for citizenship. According to Comparato (2014), the civilizing ideal of contemporary constitutionalism rests on protecting human dignity and limiting the excesses of capital, and trade unions are fundamental instruments in this process. Their crisis, therefore, is not just institutional, but symbolic and democratic, reflecting a weakening of the very social pact established by the Constitution.

Financial adversity, coupled with transformations in the labour market, are driving union restructuring and the structure of organizations, as they demand a reduction in expenses. According to Galvão et al. (2019), even

with the scarcity of data and the lack of more structured studies, participatory observations and dialogues with leaders and professionals working in unions allow us to identify some trends: reduction of physical structures and reduction of personnel in union centers; closure of union entities, particularly those that depend on union tax; internal restructuring of entities, with the closure of sub-offices, secretariats, reduction of infrastructure, dismissal of employees, reduction of advisory services, transfer to more economical locations, etc. However, at present, the reform is generating a more defensive movement to adapt to the new financial situation of the organizations, rather than driving the creation of new, more creative and solidarity-based forms of organization.

Within the debate, new concepts are emerging: the fusion of a more conventional approach to industrial relations with a more horizontal organizational structure that can encompass all workers, including those who are not represented by the current structure, such as outsourced workers, employees of digital platforms and the informal, disguised self-employed, among others. There are also proposals to organize unions by macro-sectors, aiming to organize workers by global production chains, solidarity structures that bring together various unions, among others (Santana, 2024).

Given this scenario, the reconstruction of trade unionism in Brazil requires a combination of institutional innovation, social mobilization and political will. Unions need to rethink their structure, strategies and role, not just as defenders of immediate interests, but as promoters of social justice in the broadest sense. According to Delgado (2020), collective protection in labour law is essential for the balance of labour relations, and collective bargaining and union organization are irreplaceable pillars of a truly democratic legal system that guarantees rights.

## CONCLUSION

The labor reform has an impact on union structures, mainly by changing the bases of representation; weakening the sources of funding for organizations; and reformulating the role of unions, eliminating responsibilities and introducing new ones, with the aim of committing to the company's "competitiveness" and providing "security" so that business practices are not challenged in court.

For all the above reasons, Brazilian trade union representation is going through a period of structural and functional fragility, aggravated by recent changes in labor relations. The traditional logic that governs trade unionism in Brazil, based on union uniqueness and representativeness by category, is showing signs of exhaustion in the face of complex forms of contracting and the diversification of employment relationships. The rigidity of this model does not keep up with the fluidity of the contemporary labor market, which makes it difficult to effectively include workers who do not fit into the classic molds of the Consolidation of Labor Laws (CLT).

With the emergence of new forms of contract, such as on-demand work via digital platforms, the increase in the number of individual micro-entrepreneurs (MEIs) and the growth of informality, there are gaps in the collective protection of these workers. The absence of traditional formal ties limits the work of trade unions, which face barriers in reaching these individuals and representing their interests. This new configuration of the world of work challenges the traditional mechanisms of collective protection, requiring a repositioning of trade unions to ensure the inclusion of these groups.

The 2017 labor reform (Law No. 13,467/17) contributed significantly to deepening the crisis in trade unionism by abolishing the obligation to pay union dues. This change had a direct impact on the financial sustainability of

unions, weakening their ability to articulate, mobilize and negotiate. In addition, the reform reinforced a logic of individualization of labour relations, to the detriment of collective protection, which compromises the effectiveness of union action in various sectors of the economy.

From a constitutional point of view, the union crisis reveals a tension between social rights and the principles of economic freedom. The 1988 Constitution guarantees freedom of association and the protection of workers' rights as the foundations of the social order, but the current context of flexible labor relations and the weakening of collective representation institutions seems out of step with these precepts. The inefficiency of union representation, especially with regard to atypical workers, compromises the effectiveness of fundamental rights such as the dignity of work, equal conditions and access to social justice.

The crisis in Brazilian trade union representation is therefore not an isolated phenomenon, but a reflection of broader changes in the world of work, the economy and society. It challenges jurists, legislators, scholars and the workers themselves to rethink the possible ways of building a more inclusive, representative trade unionism committed to the effectiveness of fundamental rights. The strengthening of trade unions depends above all on recognizing their centrality in the struggle for social justice, dignity at work and substantive democracy.

However, at present, the tactics adopted by the trade union movement are aimed at adjusting to the impacts of the reform, mainly by reducing expenses and developing actions to ensure its continuity within the limits set by trade unionism. However, the most significant innovations are still more linked to the debate than to concrete implementation.

From all of the above, it was concluded that the current Brazilian union model, structured on the pillars of union unity and representation by professional category, is no longer compatible with the complexity of new forms of work. The rigidity of this structure, idealized in a context of industrialization and formal employment, does not keep up with the fluidity and informality that characterize contemporary labour relations, such as work through digital platforms, individual micro-entrepreneurship and self-employed activities. Because these workers are outside the traditional protection offered by the Consolidation of Labor Laws (CLT), they remain unassisted by trade union institutions, creating a vacuum of representation that compromises the exercise of their fundamental rights.

The 2017 labor reform (Law No. 13,467/17), by abolishing the obligation to pay union dues, further weakened unions' ability to act, without, however, offering modernization mechanisms or sustainable financing alternatives. This institutional weakness compromises the autonomy and political strength of trade unions, making it difficult to negotiate collectively and promote improvements in

working conditions. This scenario favours the individualization of labour relations, reducing the scope for organized collective action and increasing the vulnerability of workers who no longer have traditional legal protection instruments.

It is therefore assumed that overcoming this crisis of representation requires not only legislative changes, but also a reconfiguration of the social role of trade unions and their forms of organization. In order to guarantee the effectiveness of workers' fundamental rights today, trade unions need to broaden their base of representation, adopt a more comprehensive socio-occupational approach and develop innovative strategies to connect with new categories of workers. This transformation could strengthen trade union legitimacy and contribute to the reconstruction of a more democratic, inclusive model in line with the constitutional principles of dignity, social justice and citizenship.

With the increasing decentralization of collective bargaining, trade union strategy is challenged to reflect on how to maintain the class nature and the ability to protect and expand rights and social protection.

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