



NOTE OF WARNING ON THE TECHNICAL INDEPENDENCE OF BRAZILIAN LABOR JUDGES IN DEFENSE OF THE FIGHT AGAINST CHILD LABOR

The National Association of Labor Magistrates - ANAMATRA, a representative entity of more than 4,000 Labor Judges from all corners of Brazil, with intense action in the fight against child labor and the eradication of all kinds of exploitation of labor, considering the upcoming IV World Conference on the Sustained Eradication of Child Labor to be held on November 14-16, 2017, in Buenos Aires, Argentina, has resolved to publish this note of warning to alert the international community to the attempts to intervene with the functional independence of Brazilian Labor Judges, for the reasons below:

After the approval of labor reform by the National Congress,¹ an extremely controversial bill in all social niches - and especially in the legal area - whose unconstitutionality and affronts to international standards on labor and the protection of human rights have been consistently pointed out by ANAMATRA and other entities, labor judges have become targets of frequent attacks in Parliament and the media, including threats of extinction of Labor Courts.

ANAMATRA points out that the violation of the Constitution or international treaties in force is not, under any circumstance, a "pretext" for not applying laws. Quite the contrary; in such cases, it is the first duty of the judicial authority to carry out diffuse constitutionality control and ensure the conventionality of laws, since any law, dealing with any matter, is subject to the interpretation of judicial courts, an unassailable principle of the application of laws to court cases.

Despite being the fastest courts of the Brazilian Judiciary, with a voluminous 4.2 million new cases received and 4.3 million judged in 2016 alone,² Brazil's Labor Courts are still being threatened with extinction "if they do not enforce labor reform"³, and their importance and efficiency have been minimized by reports that accuse them, without any real evidence, of slowness of ineffectiveness.⁴ Most of the labor cases filed in Brazil involve employers who default on severance pay, which goes to show the importance of this specialized branch of the Judiciary in the face of widely prevalent non-compliance with labor legislation in the country. In light of the foregoing, ANAMATRA has issued this note to alert the international community of attempts to interfere with the functional independence of Brazilian labor judges regarding the application of the labor reform, especially given the harm that it may cause in the fight against child labor in the country.

The labor reform made labor relations significantly more precarious, creating systems such as 'intermittent work' and 'exclusively autonomous work' and upholding part-time work,

¹ Law no. 13467, 13 July 2017, effective on 11 November 2017.

² Available at <<https://www.conjur.com.br/2017-set-04/justica-trabalho-aumenta-produtividade-nao-diminui-acervo>> Accessed on: Nov 06, 2017 (link in Portuguese).

³ Available at: <<https://blogdobg.com.br/justica-do-trabalho-pode-ser-extinta/>> Accessed on November 6, 2017 (link in Portuguese).

⁴ Available at: <<http://www1.folha.uol.com.br/mercado/2017/10/1931318-justica-do-trabalho-e-lenta-e-pouco-efetiva-para-o-empregado.shtml>> Accessed on November 6, 2017 (link in Portuguese).



among other devices incompatible with decent work and full employment, without making any caveats regarding the hiring of adolescents in these conditions.

Regarding this topic, it is important to note that there are several bills under review by the Brazilian congress at the moment seeking to amend the Constitution to remove protections for children and adolescents at work, chiefly among which bills that would reduce the minimum working age in Brazil from 16 years of age to 14 (Bills No. 35/2011, 274/2013 and 108/2015) or 15 (Bill 77/2015) years and a bill which would allow part-time work beginning at the age of 14 (Bill 18/2011). With minor variations, the sponsors of these bills argue that the changes are justified in order to avoid idleness, which would lead youth to become involved with crime and take up informal work, which the same youth, under the current economic scenario, have to resort to in order to support their family. Such descriptions clearly reveal that Brazil has a culture of naturalizing the work of children and adolescents, supposedly to curb criminal practices and support the family's livelihood.

In light of the foregoing, ANAMATRA vehemently repudiates all arguments which, under any pretext or any interest, seek to inhibit, "frame" or prevent the free exercise of the constitutional role attributed to all Labor judges of Brazil, in all of its facets (which includes, of course, the exercise of diffuse constitutional review, if they so understand it to be required). The impartiality and technical independence of labor judges, free of any form of influence, solicitation, pressure, threat or intrusion, is the first guarantee of Brazilian citizens who appear before our courts, be it as plaintiffs, defendants or intervenors. That is why any initiative aimed at mitigating or suppressing such a guarantee must be denounced as authoritarian, anti-republican and incompatible with the Democratic Rule of Law. As the General Assembly of the United Nations has already recognized, "The independence of the judiciary shall be guaranteed by the State"; and, for that very reason, that "it is the duty of all governmental and other institutions to respect and observe the independence of the judiciary". This is what the Brazilian Labor Courts are fighting for, now and hereafter.

14 November 2017



Guilherme Guimarães Feliciano
President of ANAMATRA



Noemia Aparecida Garcia Porto
Vice-President of ANAMATRA



Luciana Paula Conforti



Director of Citizenship and Human Rights at ANAMATRA