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ICTUR was founded  
to defend and extend trade union rights  
and to raise awareness of these rights  
and their violations around the world

**August 2017**

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**Attn:**

**President Michel Temer**  
**Presidente da República Federativa do Brasil**  
**Gabinete do Presidente**  
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**CC:**

**Ronaldo Nogueira, Minister of Labour and Social Security**  
**Torquato Jardim, Minister of Justice and Public Security**  
**Trade union confederations: CUT, FS, UGT, CTB**  
**ITUC CSA**

**August 2017**

Dear President Temer,

The International Centre for Trade Union Rights is concerned about the impacts of the extensive labour law reforms currently underway in Brazil.

ICTUR understands that Brazil's Labour Reform Bill (Law No. 13.467) was approved on 14 July and is due to come into effect on 11 November 2017. As observed by Brazilian trade unions, legal experts and the ILO's Committee of Experts on the Application of Conventions and Recommendations, the Bill contains amendments to the 1943 Consolidation of Labour Laws (Consolidação das Leis do Trabalho, CLT) which would violate the provisions of the 1988 Brazilian Constitution as well as Brazil's international obligations under the ILO Forced Labour Convention, 1930 (No. 29), ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98), ILO Collective Bargaining Convention, 1981 (No. 154) and the ILO Occupational Safety and Health Convention, 1981 (No. 155). We

are further informed that the government has failed to carry out tripartite consultations on the reforms, despite the far-reaching impacts of these reforms, and their implications for Brazil's application of ILO Conventions, including fundamental Conventions. We recall that Brazil has ratified the ILO Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and we urge the authorities to convene appropriate consultation forums so as to make a proper assessment of the implications of these reforms.

It is anticipated that over 120 aspects of individual and collective protections for workers will be negatively impacted by the Bill. As detailed in the Technical Note submitted on 26 June 2017 by Prosecutor-General for Labour, Ronaldo Fleury, the Bill also produces numerous violations of the Brazilian Constitution. The features of the Bill which are most alarming include: the violation of Brazil's obligations under international human rights treaties and ILO conventions; distortion of the employment system and denial of fundamental rights; flexibilization of the working day; undermining of the fundamental right to the minimum wage, to remuneration for work and to an equitable salary; the weakening of the right to representation of workers and exclusion of unions from worker representation; allowing for collective agreements to lower statutory labour standards; the exclusion or reduction of employers' responsibilities to workers; elimination of protections for pregnant women from working in unhealthy working environments; breach of the law regulating domestic work which guaranteed historic rights to female domestic workers; the elimination of trade union funding in place since the 1940s; limitations on workers' fundamental rights to full compensation for non-pecuniary damage (allowing for calculation of compensation for moral damages resulting from accidents based on salary rather than severity of harm); restrictions on workers' access to the Labour Court; interference with the functional autonomy of the labour judiciary; and the failure to consult with social partners over the Bill's content.

With regard to collective bargaining, ICTUR notes that in 2017 the ILO Committee of Experts on the Application of Conventions and Recommendations had cause to review the Bill's proposed amendment of section 618 of the CLT, which would allow that terms and conditions of work determined by means of a collective agreement or accord shall prevail over those set out in law. The Committee noted in this regard:

*'that the general objective of Conventions Nos 98, 151 and 154 is to promote collective bargaining with a view to agreeing on terms and conditions of employment that are more favourable than those already established by law... The Committee emphasizes that the definition of collective bargaining as a process intended to improve the protection of workers provided for by law is recognized in the preparatory work for Convention No. 154, an instrument which has the objective, as set out in*

*its preambular paragraphs, of contributing to the objectives of Convention No. 98... From a practical viewpoint, the Committee considers that the introduction of a general possibility of lowering through collective bargaining the protection established for workers in the legislation would have a strong dissuasive effect on the exercise of the right to collective bargaining and could contribute to undermining its legitimacy in the long term... [A] provision establishing that provisions of the labour legislation in general may be replaced through collective bargaining would be contrary to the objective of promoting free and voluntary collective bargaining, as set out in the Convention'*

*(International Labour Conference, Application of International Labour Standards 2017 (I): Report of the Committee of Experts on the Application of Conventions and Recommendations, pp.64-65)*

ICTUR further notes that the Labour Reform Bill follows the approval of the Law on Outsourcing earlier this year (Law No. 13.429) which extends outsourcing to all labour relations and restricts workers from pursuing any remedy against the primary contracting company. It is reported that the scourge of outsourcing in Brazil is directly correlated to many of the most egregious labour rights violations: ninety-two per cent of slave labour cases involve outsourcing, as do eight in 10 industrial accidents. The Law on Outsourcing threatens to further undermine efforts to tackle labour rights violations by protecting contracting companies from any liability for workers supplied by agencies. This has been accompanied the government's suspension in 2014 of the blacklist of companies found to be involved in slave labour; it is understood that the suspension was lifted earlier this year after legal action by labour prosecutors, but that the blacklist's republication on 23 March was reportedly amended after just three hours with the removal of 17 of the 85 companies initially named, with no further clarification.

ICTUR calls on the government to ensure that it fulfils its obligations under both the Brazilian Constitution and the ILO Conventions (in particular Nos. 29, 98, 144, 154 and 155) by subjecting the Laws Nos. 13.467 and 13.429 to thorough review by the competent authority, by providing for appropriate tripartite consultation to occur, and by implementing all amendments necessary to comply with those international and constitutional obligations. ICTUR further calls on the government to undertake all necessary measures to ensure the fundamental freedoms of workers to join and form unions and to take action in defence of their interests. ICTUR will report these developments in the journal *International Union Rights*, established in 1993, with a readership in more than 100 countries.

Yours Faithfully,

A handwritten signature in black ink, appearing to be 'D. M.', followed by a horizontal line.

Daniel Blackburn, Director