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SUMÁRIO

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ABSTRACT: The CBR-LRI index was developed by the Cambridge University for 117 nations. However, the most recent release only includes data up until 2013. The study aims to reveal the new labour regulation index in Brazil following the developments that occurred between 2014 and 2021, particularly after the labour reform. Through leximetrics, the labour law and the 40 variables of the CBR-LRI were analysed, based on their algorithms. The results revealed a 9.18% decrease in the country's regulation. Brazil's reform significantly lowered the regulation of different forms of employment, working time and dismissal, and, to a lesser extent, industrial action regulation. On the other hand, it marginally expanded employee representation regulation. The Brazilian reform directed regulation towards the flexibilization of labour relations, with the valorisation of negotiation between parties and the adoption of new forms of work and technologies. Nonetheless, it included new features that are not related with standard labour law assumptions, such as the intermittent contract and the concept of a hyper-sufficient employee. There was also a natural oscillation in labour regulations over time, with a protective bias after 1988. Finally, the index's comparative simulation indicates that Brazil's new result value remains higher than the average of the other CBR-LRI countries.
KEYWORDS: Labour regulation in Brazil. CBR-LRI Index. Labour reform.

RESUMO: O índice CBR-LRI foi desenvolvido pela Universidade de Cambridge para 117 nações. No entanto, a divulgação mais recente inclui apenas dados até 2013. O estudo visa revelar o novo índice de regulação trabalhista no Brasil após os desenvolvimentos ocorridos entre 2014 e 2021, principalmente após a reforma trabalhista. Por meio da leximetria, foram analisadas a legislação trabalhista e as 40 variáveis do CBR-LRI, com base em seus algoritmos. Os resultados revelaram uma queda de 9,18% na regulamentação do país. A reforma do Brasil reduziu significativamente a regulamentação de diferentes formas de emprego, jornada de trabalho e demissão e, em menor medida, a regulamentação de ações trabalhistas. Por outro lado, expandiu marginalmente a regulamentação da representação dos empregados. A reforma brasileira direcionou a regulamentação para a flexibilização das relações de trabalho, com a valorização da negociação entre as partes e a adoção de novas formas de trabalho e tecnologias. No entanto, incluiu novidades que não estão relacionadas com os pressupostos da legislação laboral normalizada, como o contrato intermitente e o conceito de trabalhador hipersuficiente. Houve também uma oscilação natural nas normas trabalhistas ao longo do tempo, com viés protecionista a partir de 1988. Por fim, a simulação comparativa do índice indica que o valor do novo resultado brasileiro continua superior à média dos demais países do CBR-LRI.
PALAVRAS-CHAVE: Regulação trabalhista no Brasil. Índice CBR-LRI. Reforma trabalhista.

CLASSIFICAÇÃO JEL: J0; J5; J8

1 INTRODUCTION

The impact of labour legislation on the economy has been debated all around the world. After the 2017 labour reform, with Law No. 13,467/2017, which modified the Consolidation of Labour Laws (CLT), and Law No. 13,429/2017, which revised the rules for temporary work and the provision of outsourced services, the matter became a topic of significant discussion in Brazil.

According to the Brazilian Institute of Geography and Statistics (IBGE), the country's workforce was composed of approximately 107 million individuals in the first quarter of 2022. Of these, around 95 million of people were employed, meaning they were working, while nearly 12 million were unemployed, that is, they were looking for work.

Indices designed to measure labour regulation have become prominent tools in economic research in recent decades. The University of Cambridge publishes the labour regulation index for 117 nations, which account for around 95% of the world's Gross Domestic Product (GDP) (ADAMS ET AL., 2017). The work of the Centre for Business Research - Labour Regulation Index (CBR-LRI) is divided into the following categories: A. Different forms of employment, B. Regulation of working time, C. Regulation of dismissal, D. Employee representation, and E. Industrial Action (ADAMS, BISHOP, DEAKIN, 2016; ADAMS, BISHOP, DEAKIN, 2017).

The index dataset spans the years 1970 to 2013, including for Brazil. The CBR-LRI provides quantitative metrics of labour regulation levels. It just so happens that the most recent release, in 2016, amended in 2017, contains values for Brazil up to 2013. This means that regulatory changes made after 2014, particularly the 2017 reform, are not reflected in the index.

Thus, our objective is to answer the following question: based on the new CBR-LRI value for Brazil, what is the level of labour regulation in the country following the changes made between 2014 and 2021, particularly after the labour reform? The research has the following goals: a) update the CBR-LRI value for Brazil, with data from 2014 to 2021, and,

where necessary, revise the authors' original interpretations and values until 2013; b) make available the new updated and revised value of the Brazilian index; c) determine whether the variation of the new CBR-LRI implied a decrease or increase in the level of labour regulation in the country; d) present the Brazilian index's historical series until 2021; e) assess the country's labour regulatory trend f) assess the composition of the Brazilian index over time (1970-2021) and the weight of the 2017 reform on the group of variables of the new CBR-LRI; g) simulate a comparative ranking for Brazil in respect to the 2013 indices of the other 116 CBR-LRI countries using the new Brazilian index.

The research is organized as follows: 1. Introduction, 2. Theoretical Framework, 3. Methodology, 4. Results and Discussions, 5. Analysis of results and 6. Conclusion.

2 THEORETICAL FRAMEWORK

2.1 INTERNATIONAL

According to Adams et al. (2017), the purpose of developing a labour regulation index is to explore how quantitative tools might aid in the understanding of legislation. The authors emphasize the importance of adopting a critical perspective on regulation, integrating interpretive and empirical analyses to gain a more comprehensive understanding of the issue.

The CBR-LRI does not, by itself, imply that one country has a better labour-law environment than another. The index should be used as a complement to other data sources, as using it alone can result in an incorrect or inaccurate picture of how labour laws work in different nations (ADAMS; BISHOP; DEAKIN, 2016, 2017).

According to Botero et al. (2004), when leftist governments are in power, the most protective regulations for workers are enacted. The authors' findings support the hypothesis that higher union density relates to better worker protection. Nonetheless, the data found supports the assumption that the legal origin of legislation is significant in the definition of regulation, including labour.

Campos and Nugent (2012) sustain that protective employment regulation is prevalent throughout the world. Furthermore, regulatory levels change with time, and legal origins are not the most relevant explanation for regulatory changes.

In an ILO study, Fenwick et al. (2015) revealed that the effects of regulation vary depending on the variables investigated. According to the CBR-LRI, regulation may safeguard employees while also stimulating job creation.

Protective laws, according to Neoclassical literature, generally interfere with the freedom of parties and, as a result, distort market results, potentially leading to unemployment and other negative effects of misallocation of economic and social resources (ADAMS ET AL., 2017).

Heckman and Páges (2000) uncovered empirical data in Latin American nations indicating that increased job security regulation is detrimental to young people and can exacerbate income disparity and labour market informality.

Brancaccio, Cristofaro, and Giammetti (2020) revisited 53 articles published between 1990 and 2019 to investigate the relationship between protective legislation, employment, and unemployment. According to the findings, 28% of the workers agreed that rigorous regulation generates inefficiency and fosters unemployment, while 51% disagreed with it and 21% were opposed to this idea.

On an index, perceiving high scores as undesirable is something very particular; however, evidence suggests that higher scores are associated with higher rates of informality or unemployment and lower rates of labour force participation. As a result, the term reform must be associated with the reduction of index values (CAMPOS; NUGENT, 2012).

2.2 NATIONAL

Pereira (2020) explains that the initial labour standards were interventionist in nature, with the objective of creating basic working conditions, mentioning the CLT in the 1940s as an example. However, he emphasizes that the discussion on interventionism was deepened in the 1980s and 1990s as a result of globalization and new technologies. According to the

author, these events resulted in a certain loss of employees' rights as part of a global survival movement of enterprises, supporting new labour relations and other forms of employment that no longer fit traditional job requirements.

Martins (2018) sees capable workers with rights and obligations, the prestige of negotiation between parties, and the inclination to make work more flexible in core countries as reformist foundations.

According to Yeung (2017), the reformist moment is viewed by some as a new age in labour relations and by certain organizations, such as unionists, as a period of fear of workers' capital exploitation. He observes an excess of hope on the one hand and an excess of concern on the other.

However, the 2017 reform enacted capital protection rules, which run counter to the foundation of labour law, namely worker protection (LEITE, 2018).

Veloso (2020) analysed the 2017 reform model and concluded that flexible contracts, new forms of hiring, and the promotion of collective bargaining help women and young people enter the formal market and prevent informality.

Teixeira (2019), on the other hand, assessed the economic effects of the labour reform and discovered, using the IBGE's National Household Sample Survey - PNAD, that informality levels expanded faster than employment ones.

Trovão and Araújo (2020) concluded in a short-term analysis based on IBGE and CAGED data that the Brazilian reform did not achieve the goal of recovering the labour market and, in fact, may have contributed to its contraction, as they observed the replacement of mid-range contracts by low-income contracts.

Ottoni and Barreira (2021) used the synthetic control approach to investigate the long-term consequences of the reform on unemployment in the country. The results indicated a decrease in Brazil's natural rate of unemployment ranging from 1.17 to 3.46 percentage points.

Silva (2018) showed that there is no statistically significant association between employment protection legislation and the economic variables of national production capacity, productivity, international competitiveness, economic attractiveness, and economic inequality based on the OECD index.

3 METHODOLOGY

The research presents labour regulation as the variable of interest to be explained, through a review and update of the CBR-LRI for Brazil. The explanatory variables are the normative updates carried out between 2014 and 2021, especially the labour reform, and the country's labour legislation.

The CBR-LRI was created in response to an issue of interest, namely work regulation. The index was therefore designed as a tool for measuring regulation. Thus, 40 indicators or variables, as well as coding algorithms on a scale of 0 to 1, were created. Finally, the results of each indicator were combined to calculate the index's final score. A score of 0 indicates that there is no regulation for the variable under consideration. A result close to one, on the other hand, suggests greater regulation of the researched variable (ADAMS; BISHOP; DEAKIN, 2017).

Based on the index algorithms and the data in Appendix 2 of the current CBR-LRI publication for Brazil, this study assessed the 40 variables and updated values previous to 2014, whose interpretations by the authors differed from the current analysis.

During the study, three coding approaches were observed: binary (0 or 1); progressed coding between 0 and 1, described in days, weeks, months, or years; and progressed coding between 0 and 1, which reflects the regulation of employee protection or the power of the employer (ADAMS ET AL., 2017). Finally, new scores were assigned to each variable, resulting in the updated CBR-LRI of Brazil (1970-2021).

The data was coded using the leximetric methodology, which allows for the measurement of variations across time (ADAMS; BISHOP; DEAKIN, 2016; ADAMS; BISHOP; DEAKIN, 2017). The method entails a quantitative analysis of texts from constitutions, laws,

decrees, normative directives, and ordinances, as well as significant jurisprudence (ADAMS ET AL., 2017).

The new coding was developed through an analysis of the letter of the labour law as well as the commands of the index algorithms. Although efforts were made to make the legislation compliant with higher court decisions, subjective and doctrinal interpretations were limited. To arrive at the quantitative outcome, qualitative analyses of interpretation of the meaning (or sense) of the Brazilian standard were required.

Initially, the research assessed the relationship between more than 200 regulations with labour legislation, including the 1988 Constitution, complementary and ordinary laws, decrees, normative instructions, ordinances, and superior court precedents. With the development, it was identified that just about 20 regulations, most notably the 2017 reform, were successfully associated to the CBR-LRI. To obtain the results, each device was thoroughly examined. In order to extract the new values for Brazil, comparisons were done between the new texts and prior or older texts, as well as between these writings and the original results of the index's creators. Labour reform is defined in the study as Law No. 13,429/2017, and particularly Law No. 13,467/2017.

4 RESULTS AND DISCUSSIONS

4.1 Different Forms Of Employment

4.1.1 The law, as opposed to the contracting parties, determines the legal status of the worker (updated value 0.5)

Law No. 13,467/2017 amended articles of the CLT that reduced its value: the inclusion of the intermittent employment contract in the country's labour law (Art. 443 and article 452-A), the regulation of telework (Art. 75-A to article 75-F) and self-employment (article 442-B), and the expansion of part-time work from 25h to 30h (Art. 58-A).

As it enables for on-demand work to be adjusted between the employer and the worker, the labour reform included intermittent work in the CLT, exhibiting intermediate qualities between the classic employment relationship and the service provider model. The

reform also ruled that after fulfilling the formalities, with or without exclusivity, continuously or not, the self-employed work contract removes the employee's characteristics.

Specific regulations also made traditional forms of employment and standard work contracts more flexible in Brazil. The contract between the autonomous freight carrier and its assistant, or between the autonomous cargo carrier and the shipper, is not one of employment, according to Law No. 13,103/2015 (Art. 4, section 5). According to Law No. 14,206/2021, cargo transport contracts are of commercial nature and do not establish an employment relationship. Partnership arrangements between salons and beauty professionals were established by Law No. 13,352/2016. (Art. 1-A). The three pieces of legislation express the non-employment nature of a contractual relationship. It should also be highlighted that Law No. 13,877/2019 excluded the use of the CLT in political party management and advisory functions (Art. 7, paragraph f, CLT). In general, Complementary Law No. 150/2015 strengthened the regulation of domestic labour, but it also provided for part-time work contracts for domestic employees (Art. 3), bringing this legislation closer to the CLT.

On an infralegal level, Decree No. 10,854/2021 regulated intermittent work (Art. 91, single paragraph), and Ordinance No. 671/2021 of the Ministry of Labour and Social Security (MTP) ratified self-employment (art. 25) and intermittent work (Art. 30), the partnership contract between the beauty salon and professional partners (Art. 49), and the removal from the CLT for certain cases of activities in party organizations.

4.1.2 Part-time workers have the right to equal treatment with full-time workers (value maintained 1)

The value was preserved, but Law No. 13,467/2017 introduced adjustments to the CLT that emphasize the principle of equitable treatment for part-time and full-time workers. Overtime is now available to part-time employees, which was previously exclusively available to full-time workers (Art. 58-A, and the repeal of section 4, Art. 59, CLT).

Complementary Law No. 150/2015, which governs domestic work, addressed the treatment of part-time and full-time employees by providing for the proportionality of part-time employees' salaries and the possibility of overtime for part-time employees (Art. 3rd, section 1).

4.1.3 Part-time workers have equal or proportionate dismissal rights to full-time workers (value maintained 1)

The value was maintained; however, Law no 13,467/2017 changed the CLT and stressed the concept of equal dismissal costs in proportion to full-time workers in dismissals of part-time workers. Part-time and full-time employees now have equal vacation entitlements. In effect, the right to collect vacation payment due to the numerous dismissals was equalised (Art. 58-A, section 7, and revocation of Art. 130-A, CLT).

4.1.4 Fixed-term contracts are allowed only for work of limited duration (updated value 0.5)

Law No. 13,467/2017 incorporated the intermittent employment contract into the CLT (Art. 443 and Art. 452-A, CLT), which in effect functions as an employee who works only when the employer calls them in. It removed some of the essence of Brazil's fixed-term work paradigm, such as the transitory nature, training, seasonal labour, and replacement of workers on maternity or sick leave. The modified phrasing of Art. 443 separates intermittent labour from a fixed or indefinite duration contract.

There has also been a decrease in the regulation of temporary work in Brazil. Law No. 13,429/2017 approved the temporary contract in the core business of the company (Art. 9, section 3) and increased the period of the temporary contract (Art. 10, section 1 and 2) from 3 to up to 9 months (270 days).

Changes in specific rules point to increasing flexibility and the use of fixed-term contracts in Brazil. Complementary Law No. 150/2015 provided for work for a fixed period for domestic workers. Decree No. 9,579/2018 and MTP Ordinance No. 671/2021 ratified the

prescription of Law No. 11,788/2008 regarding the possibility of a professional apprenticeship contract lasting longer than 2 years, when the apprentice has a disability.

4.1.5 Fixed-term workers have the right to equal treatment with permanent workers (revised and updated value 0.9)

The temporary contract for the company's primary business was expanded by Law No. 13,429/2017 (Art. 9, section 3, Law No. 6,019/1974), providing a closer treatment between temporary workers (fixed-term contracts) and workers with an indefinite contract. It further specified that it is the contractual party's responsibility to ensure the workers' safety and hygiene, and that the contracting party must provide the same medical, outpatient, and meal care as it does for its employees (Art. 9, section 1, section 2, Law No. 6,019/1974). Fixed-term workers in Brazil have a very similar legal status to indefinite-term workers. However, it is not about equality. For example, there is no 40% fine of the Severance Indemnity Fund (FGTS) for dismissals without reasonable cause, nor is there any requirement for prior notice for contractual terminations for a specified duration. Law No. 13,467/2017 authorized salary differentials between workers for a set and indefinite period, based on principles of productivity, technical perfection, and length of service (Art. 461, section 1, CLT). Furthermore, it prohibited representatives of the company's employees' committee from being workers for a fixed term (Art. 510-C, section 2, CLT). In this sense, it was first decided to revise (0.8) and then to gradually update the value (0.9).

4.1.6 Maximum duration of fixed-term contracts (value maintained 0.8)

Decree No. 9,579/2018 and MTP Ordinance No. 671/2021 reaffirmed the provisions of Law No. 11,788/2008 regarding the possibility of a professional apprenticeship contract lasting longer than two years in the case of a disabled apprentice. Due to the variable's extraordinary nature, an update was deemed insufficient to modify its value.

4.1.7 Agency work is prohibited or strictly controlled (updated value 0.25)

Law No. 13,429/2017 authorized temporary work in support and core activities of the service-taking company and extended the use of the temporary contract to 180 days, which can be extended for another 90 days with the same employer if the conditions that gave rise to the contract are maintained (section 3, of Art. 9, and sections 1 and 2, of art. 10, Law No. 6,019/1974). Furthermore, Law No. 13,429/2017 redefined the concept of a temporary work company, that is, the legal entity responsible for the temporary placement of workers for other companies, which has been duly registered with the Ministry of Labour (Art. 4, Law No. 6,019/1974), removing the word 'urban' after the expression 'legal entity'. The three aforementioned amendments were confirmed at an infralegal level by Decree No. 10,854/2021 (Art. 59, Art. 66 and Art. 43).

4.1.8 Agency workers have the right to equal treatment with permanent workers of the user undertaking (revised and updated value 0.9)

By allowing temporary labour in the company's core business (section 3, Art. 9, Law No. 6,019/1974), Law No. 13,429/2017 brought the treatment of temporary workers closer to that of workers with a fixed-term contract. Furthermore, Law No. 13,429/2017 asserted that it is the contracting party's responsibility to ensure the safety, hygiene, and health conditions of temporary workers, as well as the extension to temporary workers of the same medical, outpatient, and meal care provided to the contracting party's employees (sections 1 and 2 of Art. 9 of Law 6,019/1974). Fixed-term workers in Brazil have a very similar legal status to indefinite-term workers. However, it is not about equality. The phrasing of Article 12 of Law No. 6,019/1974, which states that "equivalent" remuneration is guaranteed for temporary workers in comparison to the remuneration of the contracting party's employees, is relevant in this regard. Remember that there is no fine of 40% of FGTS for dismissal without reasonable cause, nor is there any requirement for prior notice in contractual terminations for a specified period. Moreover, Law No. 13,467/2017 addresses the possibility of wage differentials between workers for a fixed and indefinite period based on productivity,

technical perfection, and length of service (Art. 461, section 1, CLT). Furthermore, the labour reform barred employees' committee representatives from working for a fixed term (Art. 510-C, section 2, CLT). Thus, it was first agreed to revise (0.8), and then gradually update the value (0.9).

Table 1 - Revision and update of the CBR-LRI. Brazil 1970-2021. Group A. Different forms of employment

Variable	CBR-LRI 1970-2013	Author review. 1970-2013	Author review and update. 1970-2021
1. The law, as opposed to the contracting parties, determines the legal status of the worker	1	1	0.5
2. Part-time workers have the right to equal treatment with full-time workers	1	1	1
3. Part-time workers have equal or proportionate dismissal rights to full-time workers	1	1	1
4. Fixed-term contracts are allowed only for work of limited duration	0.67	0.67	0.5
5. Fixed-term workers have the right to equal treatment with permanent workers	1	0.8	0.9
6. Maximum duration of fixed-term contracts	0.8	0.8	0.8
7. Agency work is prohibited or strictly controlled	0.75	0.75	0.25
8. Agency workers have the right to equal treatment with permanent workers of the user undertaking	1	0.8	0.9
Group A value	0.90250	0.85250	0.73125

Source: Prepared by the Author (2022).

4.2 Regulation Of Working Time

4.2.1 Annual leave entitlements (revised value 0.87)

Law No. 13,467/2017 promoted changes in the CLT that provide greater flexibility to the vacation theme, such as taking vacations in three periods (Art. 134, section 1, CLT) and the repeal of section 2 of Art. 134, which required those under the age of 18 and over the age of 50 to take the vacation period all at once, but they were insufficient to change the variable's algorithm. However, the variable's value was altered because the Brazilian regulation is 30 days of vacation, a 44-hour workday, and Saturday is a working day. It should be noted that the labour standard, in general, does not provide for double payment for Saturday work, but

only for Sunday work. Precedent 113, TST (Banking. Saturday. Business day) is cited. Therefore, the algorithm was revised considering 26 working days of vacation.

4.2.2 Public holiday entitlements (revised value 0.67)

In accordance with Law No. 9,093/1995, Decree No. 10,854/2021 states that holidays throughout the national territory are those determined by legislation, while local holidays, limited to four, are those designated by municipal law (Art. 153). Federal legislation establishes eight holidays: January 1st, April 21st, May 1st, September 7th, November 2nd, October 12th, November 15th, and December 25th (Law No. 6,802/1980 and Law no 10,607/2002). Federal legislation, however, enlarged the possibility of at least four additional holidays per year (Art. 1, Art. 2, Law No. 9,093/1995). As a result, the federal regulation authorized up to 12 holidays. The algorithm was updated to account for Brazil's 12 public holidays per year.

4.2.3 Overtime premia (value maintained 0.5)

The value was maintained. However, Law No. 13,467/2017 updated the CLT in relation to the increase in overtime of at least 50% over regular hours (section 1, Art. 59), a percentage originally allowed for by the 1988 Constitution. Furthermore, Complementary Law No. 150/2015 enhanced domestic workers' rights, including paid overtime with a 50% increase (section 1, Art. 2) and paid night work with an additional 20% beyond daytime hours (section 2, Art. 14).

4.2.4 Weekend working (updated value 0.9)

Law No. 13,467/2017 authorized 12 hours of work followed by 36 hours of rest (12x36). It was also determined that the monthly income in this system will cover the payments of paid weekly rest and vacations, and that any holidays or extensions of night labour will be rewarded (Art. 59-A, CLT). As a result, it deregulated double compensation for employees who work on Sundays under the 12x36 system. Ordinance MTP No. 671/2021

granted permanent license to work on Sundays to dozens of new activities on an infralegal level (Art. 62). In this sense, it eliminated double payment to individuals who work in these activities on Sundays by making it possible to compensate for rest on another day.

4.2.5 Limits to overtime working (updated value 0.5)

Law No. 13,467/2017 allowed employers and employees to directly negotiate a bank of hours for compensation within up to 6 months and provided for compensation in the same month by individual agreement (section 5, section 6, Art. 59, CLT). Decree No. 10,854/2021 (section 2, section 3, Art. 89) validated the labour reform innovations that propose raising the number of weekly working hours, including overtime, within a legal limit. Furthermore, contrary to TST Precedent 85, the reform established that normal overtime does not deduct from the remuneration agreement and the bank of hours (Art. 59-B), and that telecommuting employees are not covered by the work length standards (item III, Art. 62, CLT). It also asserted that time that exceeds the normal working day is not available to the employer when the employee seeks personal protection, by choice, in case of insecurity on public roads or bad weather conditions, as well as staying on the company's premises for private activities, contrary to TST Precedent 366. Furthermore, through collective negotiation, Law No. 13,103/2015 changed the CLT to allow professional drivers 4 overtime hours per day (Art. 235-C).

4.2.6 Duration of the normal working week (revised value 0.4)

Complementary Law No. 150/2015 confirmed the understanding that the working week in Brazil is composed of 44 hours (Art. 2). The value was changed to account for the country's 44-hour working day.

4.2.7 Maximum daily working time (updated value 0.6)

The 12x36 working system was established by Law No. 13,467/2017 through an individual written agreement or collective negotiation instrument (Art. 59-A, CLT).

Considering the two overtime hours, a daily shift of more than ten hours was thus beneficial. Telework, which was not covered in the CLT's working time chapter, was also created by the labour reform (item III, Art. 62). This modification increases flexibility in the maximum daily working time. Furthermore, Complementary Law No. 150/2015 provided for the possibility of the 12x36 system in domestic employment as a faculty of the parties.

Table 2 - Revision and update of the CBR-LRI. Brazil 1970-2021. Group B. Regulation of working time.

Variable	CBR-LRI 1970-2013	Author review 1970-2013	Author review and update 1970-2021
9. Annual leave entitlements	0.73	0.87	0.87
10. Public holiday entitlements	0.44	0.67	0.67
11. Overtime premia	0.5	0.5	0.5
12. Weekend working	1	1	0.9
13. Limits to overtime working	0.75	0.75	0.5
14. Duration of the normal working week	0.44	0.4	0.4
15. Maximum daily working time	0.8	0.8	0.6
Group B Value	0.66571	0.71285	0.63428

Source: Prepared by the Author (2022).

4.3 Regulation Of Dismissal

4.3.1 Legally mandated notice period (revised value 0.46)

According to Law No. 12,506/2011, three days must be added to the prior notice for each year of service in the company, up to a maximum of 60 days of addition, for a total of up to 90 days of prior notice. In the context of unjust dismissal, three years is equivalent to 39 days. The amount was changed to account for the 39-day notice period for three years of employment.

4.3.2 Legally mandated redundancy compensation (value maintained 1)

Complementary Law No. 150/2015 expanded the right to the FGTS (Severance Indemnity Fund) to domestic workers, bringing the domestic worker's right closer to the employee's right governed by the CLT. This modification has no effect on the index. It should also be noted that the CLT no longer conveys the normative force of Brazilian labour law in terms of indemnity compensation per year of service (art. 478). This compensation was

replaced by the FGTS following the 1988 Constitution (Art. 7, III, Federal Constitution of 1988; Law No. 8,036/1990), with only its residual use in employment contracts remaining. However, taking into consideration the monthly percentage of FGTS (8%) on the employee's remuneration and the FGTS fine (40%) owing to wrongful dismissal, the employee will continue to receive a FGTS amount equivalent to 3 months of labour (12 weeks) for 3 years of employment (current redundancy compensation).

4.3.3 Minimum qualifying period of service for normal case of unjust dismissal (value maintained 0)

Following the 1988 Constitution, the FGTS (Art. 7, III, Federal Constitution of 1988; Law No. 8,036/1990) replaced the ten-year stability (Art. 492, CLT), with only its residual application in employment contracts. The Brazilian labour law does not give general protection against wrongful termination.

4.3.4 Law imposes procedural constraints on dismissal (revised and updated value 0.1)

The requirement for assistance from the Ministry of Labour or a union for the legitimacy of a resignation request or contractual termination of an employee with more than one year of service was eliminated by Law No. 13,467/2017 (repealed section 1, Art. 477, CLT). It further confirmed that collective or plural dismissal is legal despite of a prior agreement with the union (Art. 477-A, CLT). Previously, this exemption was based on Superior Labour Court jurisprudence (TST, Collective Agreement No. 0309/2009), which determined the prior collective negotiation (authorization) with the workers' union. During the index update, it was observed that the value 0 assigned to the variable did not reflect the algorithm, since there were dismissal proceedings in Brazil, not to mention the repealed provision of Art. 477, CLT. The value was updated to 0.33 until 2016. The labour reform reduced the regulation of dismissal proceedings and, as a result, the value of the variable, but it is still not equal to 0. The still-in-force system finds that a steady employee's resignation request is only valid

with the support of the union and, if there is none, the Ministry of Labour or Labour Justice (Art. 500, CLT).

4.3.5 Law imposes substantive constraints on dismissal (value maintained 0)

The value was maintained. Contractual termination by agreement between the parties was introduced by Law No. 13,467/2017 (Art. 484-A, CLT), ensuring most of the rights of an unfair dismissal. On the other hand, Complementary Law No. 146/2014 extended the provisional stability of pregnant women to those who have custody of the child in cases of the employee's passing (item b, item II, Art. 10, Federal Constitution of 1988), and Law 13,509/2017 extended the right to temporary stability to the adopting employee. These last two improvements address temporary stability, such as that experienced during union activity or workplace accidents. It is worth mentioning the compensation provision in circumstances of arbitrary dismissal or without just cause (item I, art. 7, Federal Constitution of 1988), or during a temporary stability period (Art. 496, CLT). Brazilian legislation does not provide for absolute employment stability, prohibiting dismissal.

4.3.6 Reinstatement normal remedy for unfair dismissal (revised value 0.33)

Despite the Brazilian law allowing for the possibility of reinstatement (Art. 495, CLT), the standard remedy for dismissal without reasonable cause is compensation (item I, art. 7 of the 1988 Constitution). The FGTS has been the compensation rule for dismissal without fair cause since 1988. The Labour Court's approach to labour compensation is also significant (Art. 496, CLT). Thus, the value was revised to 0.33 based on the variable's algorithm.

4.3.7 Notification of dismissal (updated value 0.33)

Law No. 13,467/2017 eliminated the requirement for assistance from the Ministry of Labour or a union in determining the authenticity of a request for dismissal or contractual termination of an employee with more than one year of service (repealed section 1, Art. 477, CLT). It also mandated the provision of documents demonstrating the communication of the

contractual termination, as well as payment of the termination, to the employee within 10 days after the contract's termination (section 6, Art. 477, CLT). Furthermore, it determined that the annotation of the contractual termination in the work booklet is sufficient to claim unemployment insurance and FGTS compensation (section 10, Art. 477, CLT).

4.3.8 Redundancy selection (value maintained 0)

According to the variable algorithm, there are no provisions in Brazilian general labour legislation addressing the selection of redundancy.

4.3.9 Priority in re-employment (value maintained 0)

There are no provisions regarding priority in re-employment in Brazil's general labour law, according to the variable algorithm.

Table 3 - Revision and update of the CBR-LRI. Brazil 1970-2021. Group C. Regulation of dismissal.

Variable	CBR-LRI. 1970-2013	Author review. 1970-2013	Author review and update. 1970-2021
16. Legally mandated notice period	0.42	0.46	0.46
17. Legally mandated redundancy compensation	1	1	1
18. Minimum qualifying period of service for normal case of unjust dismissal	0	0	0
19. Law imposes procedural constraints on dismissal	0	0.33	0.1
20. Law imposes substantive constraints on dismissal	0	0	0
21. Reinstatement normal remedy for unfair dismissal	0	0.33	0.33
22. Notification of dismissal	0.67	0.67	0.33
23. Redundancy selection	0	0	0
24. Priority in re-employment	0	0	0
Group C value	0.23222	0.31000	0.24667

Source: Prepared by the Author (2022).

4.4 Employee Representation

4.4.1 Right to unionisation (revised and updated value 0.75)

The mandatory union dues of one working day per year were eliminated by Law No. 13,467/2017. Currently, prior and express authorization from workers is required for union contributions (Art. 545, Art. 578, Art. 579, Art. 582, Art. 583, CLT). The elimination of

mandatory union dues tends to decrease the country's union structure and, by extension, the right to unionisation. It should also be noted that the right to unionisation is not absolute, as the 1988 Constitution requires professional or union associations to register with the Ministry of Labour and, more specifically, limits them to the principle of union unity, which prohibits the formation of more than one trade union organization representing a professional or economic category, at any level, on the same territorial basis (Art. 8, paragraphs I and II). These two points, particularly the last one, indicate a revision (0.8) and subsequent progressive update of the value (0.75).

4.4.2 Right do collective bargaining (value maintained 1)

The uncovered adjustments had no effect on the algorithm. Law No. 13,467/2017 enlarged the collective bargaining institute in Brazil (Art. 611-A, CLT), with agreed matters taking precedence over the law. When the labour reform permitted the registration of working hours as exceptions to the standard working day, it opened the door to further expansion of negotiation, which in this case might take the shape of either a collective or an individual negotiation (section 4, Art. 74, CLT). Additionally, it resulted in the creation of the hyper-sufficient employee, who was given the opportunity to negotiate directly with their employers, which is the focus of Art. 611-A of the CLT (Art. 444, CLT). Moreover, it enabled the parties to engage in a direct negotiation regarding the compensatory time off (section 5, Art. 59). Due to the nature of working remotely, it was concluded that reimbursements, in addition to provisions about work equipment and infrastructure, are required to be included in the contract (Art. 75-D, CLT). The infralegal regulation also included the subject of the registration of working day by exception (item III, section 2, Art. 31 of Decree no 10,854/2021; and single paragraphs of Art. 93. and Art. 94 of MTP Ordinance No. 671/2021). On the other hand, it presented a restriction on collective bargaining regarding the impossibility of excluding functions that integrate the calculation of the apprentice quota (section 7, Art. 2 of IN No. 146/2018; and section 6, Art. 375 of MTP Ordinance No. 671 /2021).

4.4.3 Duty to bargain (updated value 0.9)

Law No. 13,467/2017 equated, for all purposes, individual, plural, or collective unmotivated dismissals, and it made the prior authorization of the unions, or the execution of a collective bargaining instrument, unnecessary for the execution of these dismissals. Additionally, the law made it so that the execution of these dismissals did not require a collective bargaining instrument (Art. 477- A, CLT). Because of this modification, the force of the law in the country in terms of the obligation to bargain was slightly reduced. Nevertheless, the rule in Brazil continues to be the duty to bargain, which means that unions and companies, even when they are provoked, cannot refuse collective bargaining (Art. 616, CLT).

4.4.4 Extension of collective agreements (updated value 0.75)

The hyper-sufficient employee is characterized by Law No. 13,467/2017 as the holder of a higher education degree who receives a monthly salary that is two times the maximum limit of the benefits provided by the General Social Security System. Hyper-sufficient employees can directly negotiate the topics available for negotiation with employers (Art. 611-A, CLT), with the same legal effectiveness and preponderance over collective instruments. The labour reform also prohibited the ultra-validity (the extension of the effects of a rule beyond the term of its validity) of collective instruments (section 3, Art. 614, CLT), limiting the validity to 2 years. In addition to this, it established that the terms of the collective agreement will always have precedence over the conditions of the collective agreement of the category, regardless of whether the clauses of the collective agreement are more or less favourable to workers (Art. 620, CLT). Prior to the implementation of the reform, the convention's terms would have taken precedence over the agreement's terms if they were more favourable. It appears that the rule continues to be the extension of the terms of collective labour instruments to workers in the category; however, the legislative changes imply a reduction in regulation, according to the variable algorithm. This is because it opens the possibility of collective instruments not reaching all employees of the category; it also

limits the validity of the instruments to two years; and it determines the prevalence of agreements over conventions regardless of conditions for workers.

4.4.5 Closed shops (value maintained 0)

The "closed shop" concept, which is something the variable algorithm works with, is illegal under Brazilian law. The principle that everyone has the right to freely associate professionally or in unions, with the stipulation that no one is required to join or continue their membership in a union, is the rule (item V, Art. 8, Federal Constitution of 1988). As a result, the corporation will not be able to consider whether a worker is affiliated with a union when deciding whether to hire them, nor will it be allowed to do so while deciding whether or not to retain them as employees.

4.4.6 Codetermination: board membership (value maintained 0)

There are no provisions in Brazilian labour law that grant unions or employee representatives the right to appoint directors on boards.

4.4.7 Codetermination and information/consultation of workers (updated value 0.5)

According to Law No. 13,467/2017, organizations that have more than 200 workers are required to hold an election for a workers' committee that will serve as their representative. The purpose of this law is to facilitate more straightforward communication between employers and workers (Art. 510-A to Art. 510-D, CLT). Before the labour reform, there existed a clause that allowed only one employee representative to be elected in enterprises with more than 200 workers (Art. 11, Federal Constitution of 1988). After the reform, there is now a provision for the formation of this workers' committee, which can have three to seven members, depending on the company.

Table 4 - Revision and update of the CBR-LRI. Brazil 1970-2021. Group D. Employee Representation.

Variable	CBR-LRI. 1970-2013	Author review 1970-2013	Author review and update. 1970-2021

25. Right to unionisation	1	0.8	0.75
26. Right to collective bargaining	1	1	1
27. Duty to bargain	1	1	0.9
28. Extension of collective agreements	1	1	0.75
29. Closed Shops	0	0	0
30. Codetermination: board membership	0	0	0
31. Codetermination and information/consultation of workers	0	0	0.5
Group D value	0.57142	0.54285	0.55714

Source: Prepared by the Author (2022).

4.5 Industrial Action

4.5.1 Unofficial industrial action (value maintained 0.33)

According to article 4 of Law No. 7,783/1989, it will be the responsibility of the union entity to convene an assembly to define the category's claims and make a decision regarding the interruption of services; however, in the event that a union entity is not present, the workers' assembly may deliberate on these purposes in order to form a negotiation committee (section 2 of art. 4). Furthermore, it validates the workers' committee by stipulating that either the workers' committee or the elected union unit will represent the workers in negotiations or before the Labour Court (Art. 5). Therefore, the possibility of a strike that does not involve the participation of the unions is ratified; yet, because it is written into the legislation, such a strike is not considered a wildcat strike.

4.5.2 Political industrial action (revised value 0.5)

The Constitution of 1988 provides that it is up to the workers to decide on the interests to be defended in the strike movement, but that abuses are subject to legal accountability (sections 1 and 2, Art. 9). It was determined by Law No. 7,783/1989 that it is up to employees and unions to define the claims of the category (Art. 4), and it also provided for accountability for violations caused by the strike (Art. 15). It should be noted that the legislation did not define that participating in political strikes is forbidden; rather, they made it very apparent that it is required to investigate any abuses that may arise from participating in political strikes. It is up to the Labour Court to rule whether an ongoing strike is becoming illegally disruptive (Precedent 189, TST). In this regard, the Superior Labour Court issued a decision on

the abusive character of the political strike (Process No. TST 1000418-66.2018.5.00.0000), which came after the Federal Supreme Court denied an extraordinary appeal (STF). The Supreme Court of the Federation, on the other hand, declared in the Writ of Injunction - MI 712 judgment of Minister Eros Grau that the Constitution does not limit the right to strike and that all sorts of strikes are permitted. Because the political strike is not officially outlawed, but the courts have the power to find it abusive, it was decided to update the value in an intermediate gradation.

4.5.3 Secondary industrial action (revised value 0.5)

It was specified in the Constitution of 1988 that it is up to the workers to decide what the goals of the strike movement are, but that any abuses must be held accountable (section 1, section 2, Art. 9). Moreover, Law No. 7,783/1989 established that workers and unions must define their claims (Art. 4), and it also provided for accountability for the violations that occur during a strike (Art. 15). It should be noted once more that the legislation did not outright forbid the strike but did convey the sentiment that excesses should be evaluated. In this sense, the value was revised, in intermediate gradation, considering the work rule has foreseen the compatibility between the freedom to choose the interests of the movement and the accountability for its abuses.

4.5.4 Lockouts (value maintained 1)

Law No. 7,783/1989 prohibited the interruption of the company's activities at the initiative of the employer (lockout), with the purpose of frustrating the negotiations or making it difficult to comply with the claims presented by the workers (Art. 17).

4.5.5 Right to industrial action (value maintained 1)

The right to strike is present in the 1988 Constitution (Art. 9).

4.5.6 Waiting period prior to industrial action (value maintained 0)

In accordance with the provisions of Law No. 7,783/1989, the employer must be informed at least forty-eight hours in advance of the strike (sole paragraph, Art. 3).

4.5.7 Peace obligation (value maintained 0.33)

Maintaining a strike after the conclusion of a collective agreement or judicial ruling is considered an abuse of the right to strike, according to Law No. 7,783/1989, which established this definition (Art. 14). There are certain exceptions: if the strike is to demand compliance with a collective bargaining agreement or a court ruling, or if it is driven by new facts or unforeseen circumstances that dramatically affect labour relations.

4.5.8 Compulsory conciliation or arbitration (updated value 0.1)

Law No. 13,467/2017 provided that hyper-sufficient employees may include an arbitration clause in their employment contracts (Art. 507-A, CLT), reinforcing the negotiation bias of Brazilian legislation. Furthermore, Law No. 7,783/2989 authorized for collective cessation of work only when negotiations fail or the impossibility of appeals through arbitration is proven (Art. 3), and the CLT established it as the role of unions to encourage conciliation in labour agreements (Art. 514). As a result, it appears that using conflict resolution methods (arbitration or conciliation) prior to a strike is almost mandatory.

4.5.9 Replacement of striking workers (value maintained 1)

Hiring temporary workers to replace striking employees was prohibited by Law No. 13,429/2017, save in instances specified by law (section 1, Art. 2, Law No. 6,019/1974). This legislative amendment supported the interpretation of Law No. 7,783/1989, which forbade the hiring of substitute workers during a strike except under the legal conditions stipulated for (sole paragraph, Art. 7).

Table 5 - Revision and update of the CBR-LRI. Period 1970-2021. Group E. Industrial action.

Variable	CBR-LRI 1970-2013	Author review. 1970-2013	Author review and update. 1970-2021
32. Unofficial industrial action	0.33	0.33	0.33
33. Political industrial action	0	0.5	0.5
34. Secondary industrial action	0	0.5	0.5
35. Lockouts	1	1	1
36. Right to industrial action	1	1	1
37. Waiting period prior to industrial action	0	0	0
38. Peace obligation	0.33	0.33	0.33
39. Compulsory conciliation or arbitration	0.25	0.25	0.1
40. Replacement of striking workers	1	1	1
Group E value	0.43444	0.54555	0.52889

Source: Prepared by the Author (2022).

4.6 The New Value Of Cbr-Lri For Brazil (1970- 2021)

After reviewing and updating the CBR-LRI, Brazil (1970-2021), the value of the new index is presented: 0.52925.

Table 6 - CBR-LRI (1970-2013). Author revision (1970-2013). Author revision and update (1970-2021).

Total variables (1-40)	CBR-LRI 1970-2013	Author revision. 1970-2013	Author revision and update. 1970-2021
Final CBR-LRI values	0.54700	0.58275	0.52925

Source: Prepared by the Author (2022).

4.7 The Variation Of Brazil's Labour Regulation Index

The new 0.52925 index is -0.01775 lower than the Brazil's CBR-LRI (1970-2013) released by Adams, Bishop, and Deakins (2017). The real difference, however, is the discrepancy between Brazil's revised and updated average of CBR-LRI (1970-2021) and Brazil's revised average of CBR-LRI (1970-2013). In practice, this results in a reduction of -0.05350, or 9.18%, in the country's regulatory level (Table 7).

Table 7 – Differences in averages. CBR-LRI. Author revision. Author revision and update.

CBR-LRI index	Variable average (1-40)	Average differences. CBR-LRI (B - A)
Author revision (B)	0.58275	0.03575
CBR-LRI (A)	0.54700	
Author revision and update (B)	0.52925	-0.01775

CBR-LRI (A)	0.54700	
Author revision and update (B)	0.52925	-0.05350
Author revision (A)	0.58275	

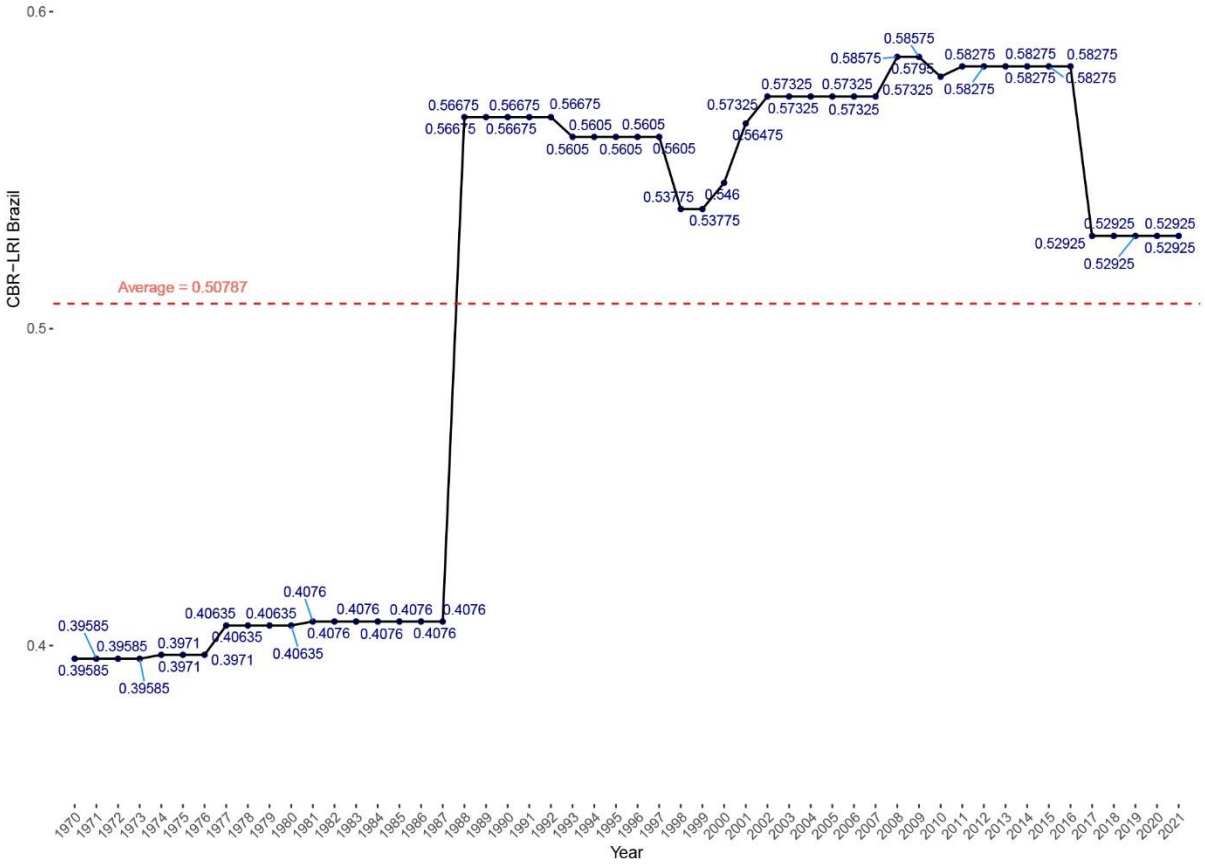
Source: Prepared by the Author (2022).

The decrease in the index value corroborates the view of Campos and Nugent (2012) regarding the adoption of the term 'reform' to represent legislative changes that reduce regulation.

4.8 The Brazilian Labour Regulatory Trend

Work regulation decreased with the labour reform in comparison to the previous period. Brazil's average index is 0.50787 (graph 1). With the 2017 reform, the value reached 0.52925, a -0.05350 decrease from the previous year. The historical series shows 0.39585 as the lowest and 0.58575 as the highest value of the Brazilian index, with a maximum variation of 0.18990. It was found that the new CBR-LRI value for Brazil (0.52925) is higher than the series average (0.50787), and that the change in the value of the new index (-0.05350) in relation to the value before the reform was almost 30% of the highest variation of the total period (0.18990). According to the data, the labour reform had a moderate impact on labour regulation in Brazil.

Graph 1 - Labour regulatory trend. New CBR-LRI Brazil (1970-2021)



Source: Prepared by the Author (2022).

After 1970, changes in regulation were noted in the following years: 1974, 1977, 1981, 1988, 1993, 1998, 2000, 2001, 2002, 2008, 2010, 2011, and 2017. The results preliminary confirm the arguments of Botero et al (2004), as they indicate a trend toward less regulation in periods where political power is more aligned to the right, and of greater regulation in periods with political power more associated to the left.

There is a significant regulatory difference between the military period (1970-1987), when the lowest level of labour regulation was recorded, and the democratic period following the 1988 Constitution, when the CBR-LRI index for Brazil increased significantly. As a result, the data imply that the country's re-democratization was more important in changing the

Brazilian index than the main type of political power that governed Brazil after democracy was restored.

The new CBR-LRI reveals that labour reform was a process of decreasing regulation. However, due to the short time since 2017, the new index does not allow us to conclude that the present regulatory trend in Brazil is work flexibilization, but it does show that the reform drove Brazilian regulation to the path of labour relations flexibility.

4.9 BRAZIL's CBR-LRI BY GROUP OF VARIABLES (1970-2021)

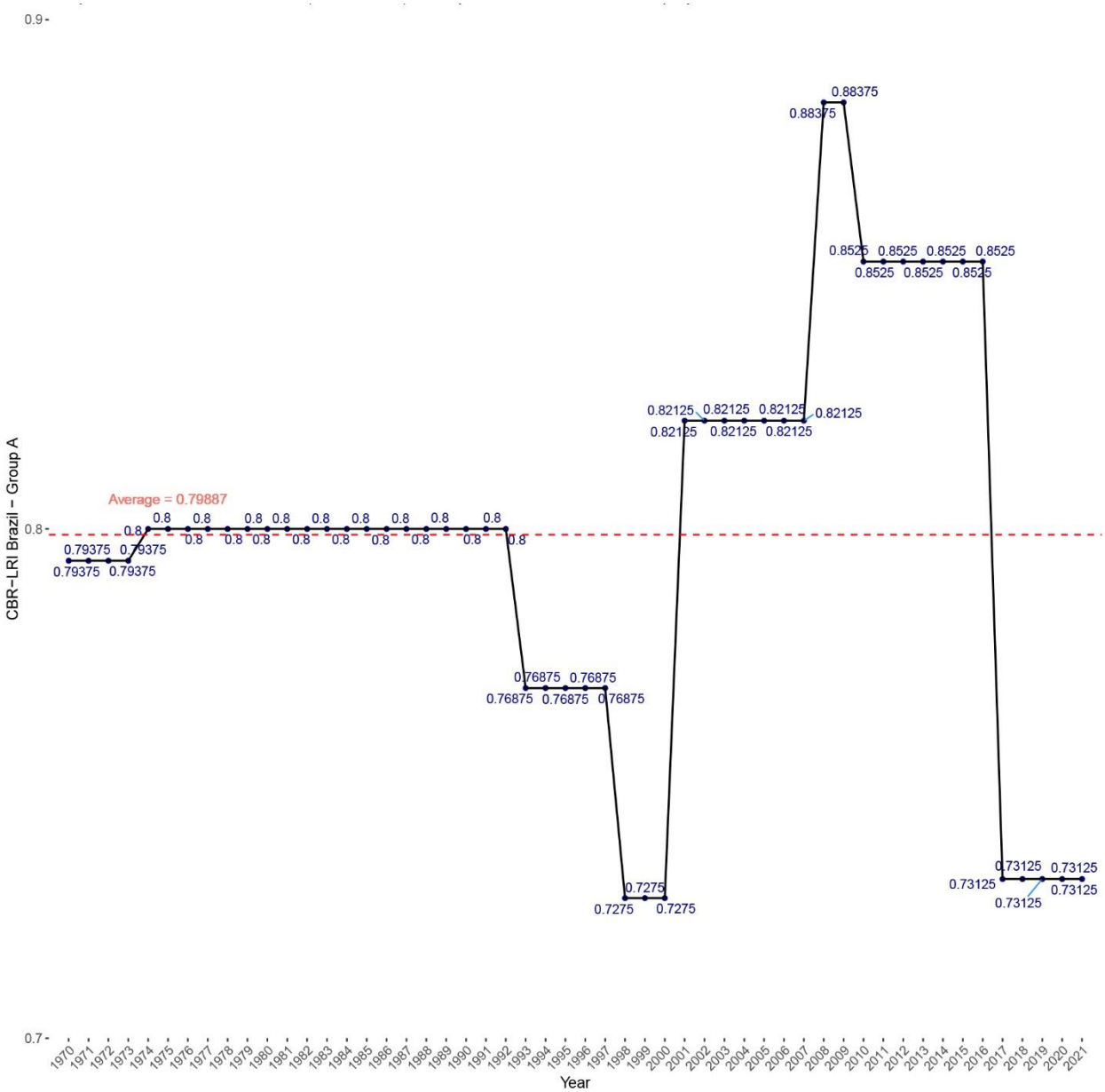
The analysis by variable groups found that the labour reform lowered to a larger extent the regulation of different forms of employment (group A), regulation of working time (group B), and regulation of dismissal (group C). It also demonstrated, in modest doses, an increase in the regulation of employee representation (group D) and a decrease in industrial action regulation (group E). According to group analysis, the change produced a variety of outcomes, including a regulatory rise in employee representation. In this sense, the data support claims of Fenwick et al. (2015), as the outcomes differed depending on the category of variables.

4.9.1 Group A. Different forms of employment

On a scale of 0 to 1, the regulation of different forms of employment has historically been a highly regulated group in Brazil. The average index for group A in the country is 0.79887 (Graph 2). With the 2017 reform, the value reached 0.73125, a -0.12125 decrease from the previous year. The historical series shows 0.72750 as the lowest and 0.88375 as the highest value of the Brazilian index, for a maximum variance of 0.15625. It was observed that the new value of group A (0.73125) is lower than the series average (0.79887), and that the variance of the new index (-0.12125) in comparison to the value before the reform was higher than 77% of the overall period's maximum variation (0.15625). According to the data, the reform had a significant impact on the regulation of different forms of employment.

The new CBR-LRI results for different forms of employment are similar to the findings of Pereira (2020), because reformist changes, such as the intermittent contract and teleworking, are related to new technologies, globalization, and a model that goes beyond traditional employment requirements, and may be associated with a loss of labour rights.

Graph 2 - New CBR-LRI Brazil (1970-2021). Group A. Different forms of employment

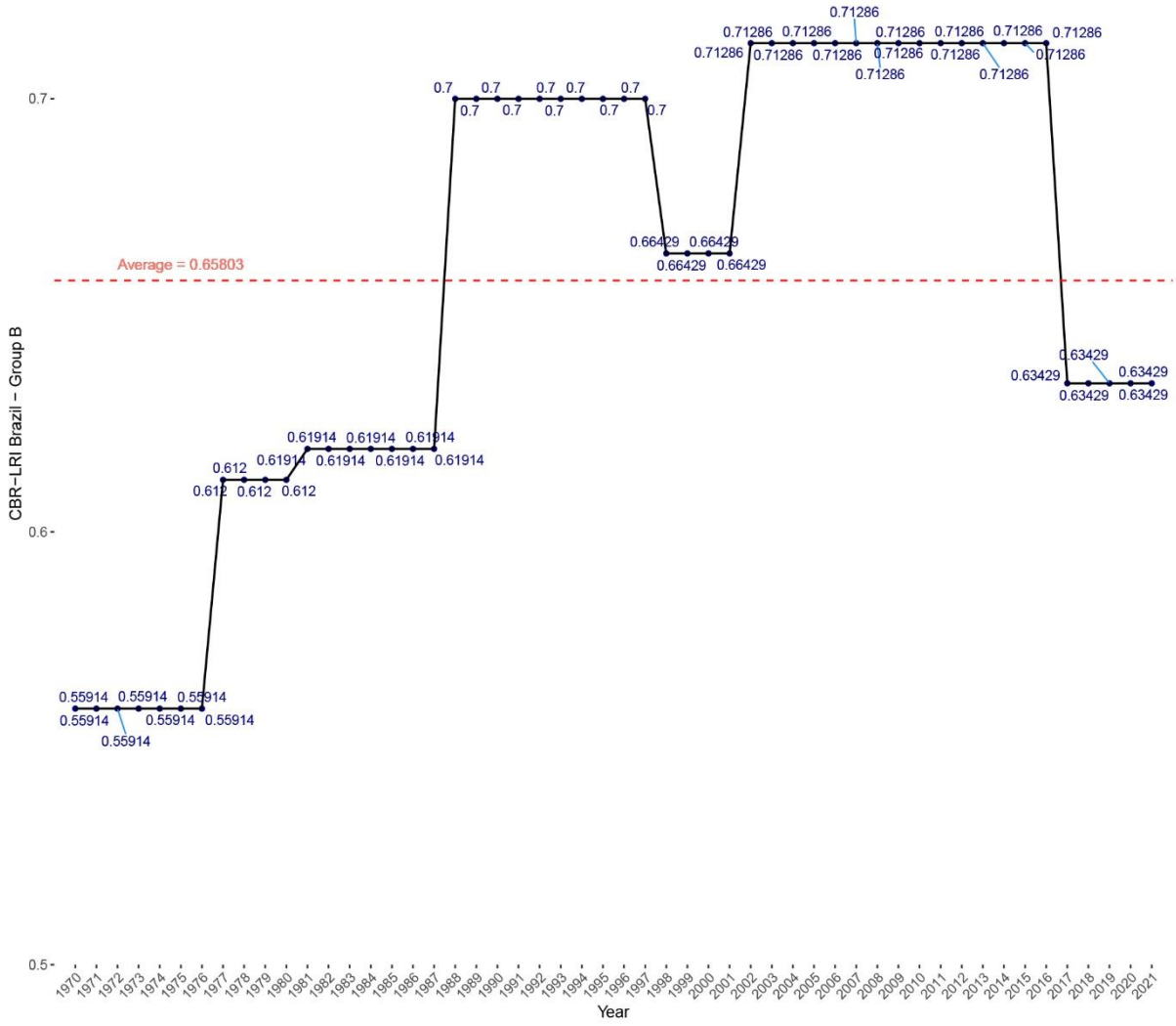


Source: Prepared by the Author (2022).

4.9.2 Group B. Regulation of working time

According to data on working time regulation in Brazil, this is a medium-high regulation category on a scale of 0 to 1. The average index for group B in the country is 0.65803 (Graph 3). Following the labour reform, the value fell to 0.63429, a -0.07857 decrease in relation to 2016. The historical series shows the Brazilian index at 0.55914 as the lowest value, and 0.71286 as the highest one, with a maximum variation of 0.15372. It was found that the new value of group B (0.63429) is lower than the series average (0.65803), and that the variation of the new value (-0.07857) in reference to the value before the 2017 reform was approximately 51% of the overall period's maximum fluctuation (0.15372). The reform appears to have had a positive impact on the regulation of working time.

Graph 3 - New CBR-LRI Brazil (1970-2021). Group B. Regulation of working time



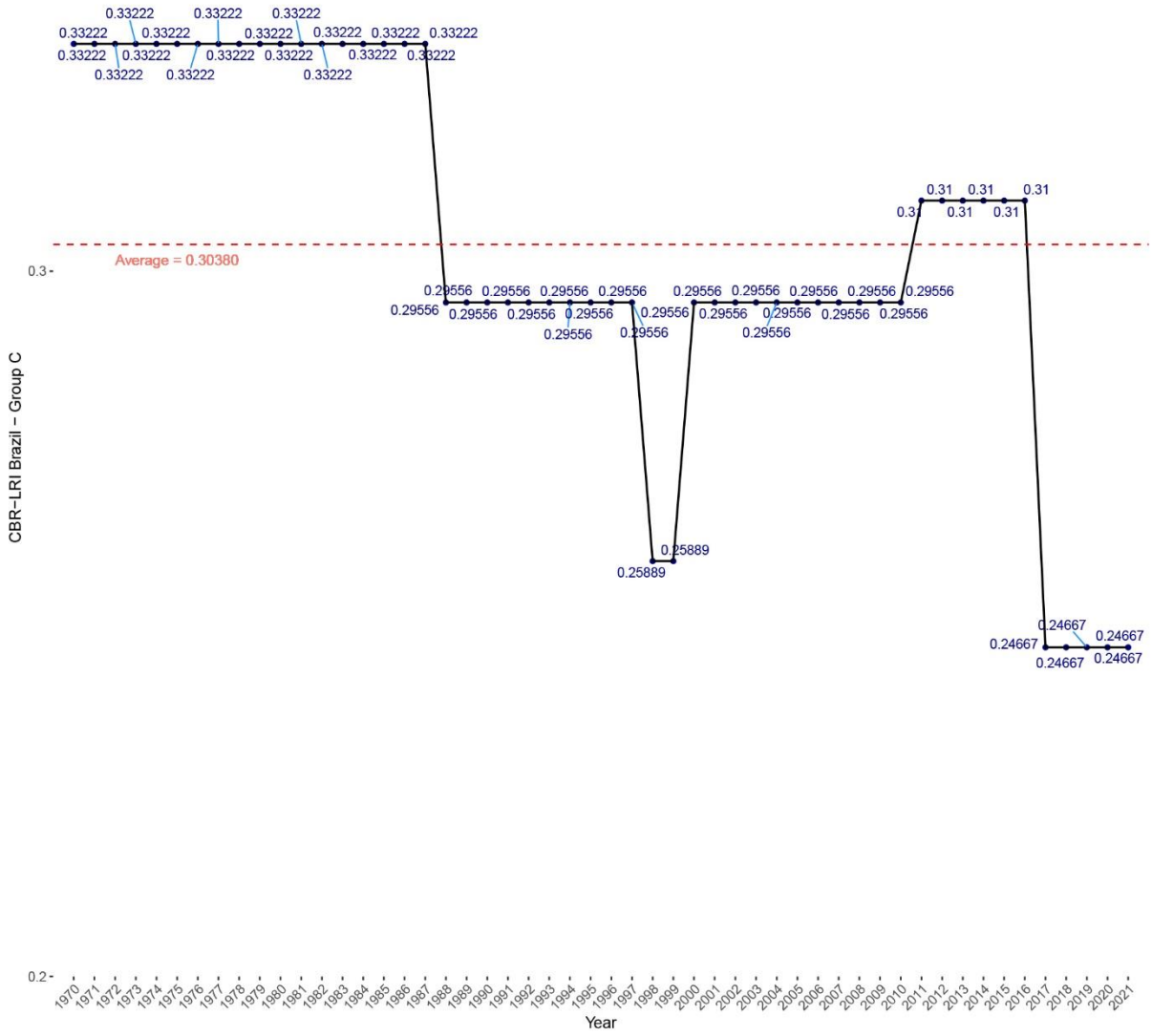
Source: Prepared by the Author (2022).

Working time changes are primarily represented by the regulation of the 12x36 working day system and the direct negotiation of compensatory time off between companies and employees. These modifications underscore Martins' (2018) reform principles, such as the significance of negotiation between parties and the concept of the capable worker, with rights and obligations.

4.9.3 Group C. Regulation of dismissal

The results show that dismissal regulation in Brazil is a category of low regulation, as measured on a scale of 0 to 1. The country's average index for group C is 0.30380 (Graph 4). Following the reform, the value dropped to 0.24667, a -0.06333 fall from 2016. The historical series shows the Brazilian index at 0.24667 as the lowest value, and 0.33222 as the highest one, with a maximum variation of 0.08555. The data show that the new group value (0.24667) is lower than the average of the series (0.30380) and had a variation (-0.06333) relative to the year before the 2017 reform that is equal to 74% of the greatest variation of the total period (0.08555). According to the numbers, the reform significantly altered the regulation of dismissal.

Graph 4 - New CBR-LRI Brazil (1970-2021). Group C. Regulation of dismissal



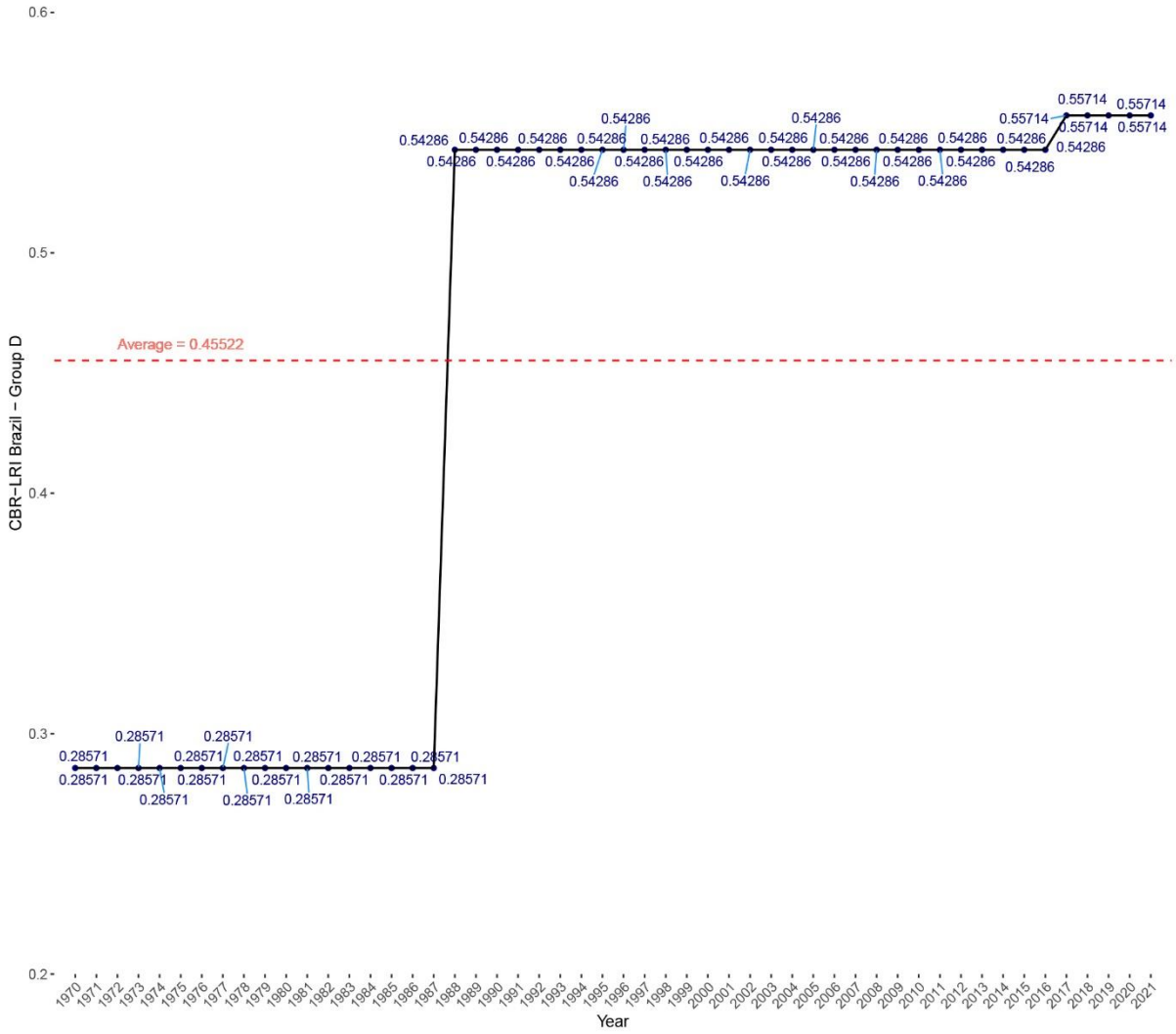
Source: Prepared by the Author (2022).

The result observed for the group is in part consistent with the arguments of Leite (2018), insofar as the elimination of the requirement for assistance in dismissals of employees with more than one year of service can be considered a protection of capital as opposed to protection of the worker.

4.9.4 Group D. Employee Representation

The regulation of employee representation was low until 1988, when it started to present an intermediate value, considering the scale of 0 and 1. The country's average index for group D is 0.45522 (graph 5). The labour reform caused a rise in the value to 0.55714, a difference of +0.01428 regarding 2016. The historical series presents 0.28571 as the lowest value of the Brazilian index and 0.55714 as the highest one; therefore, a maximum variation of 0.27143. It was found that the value for Group D (0.55714) is higher than the average of the series (0.45522), and that its variation (+0.01428) relative to the value before the reform accounted for around 5% of the greatest variation during the entire period (0.27143). The reform increased the group's regulation but only slightly altered the level of regulation of employee representation.

Graph 5 - New CBR-LRI Brazil (1970-2021). Group D. Employee Representation



Source: Prepared by the Author (2022).

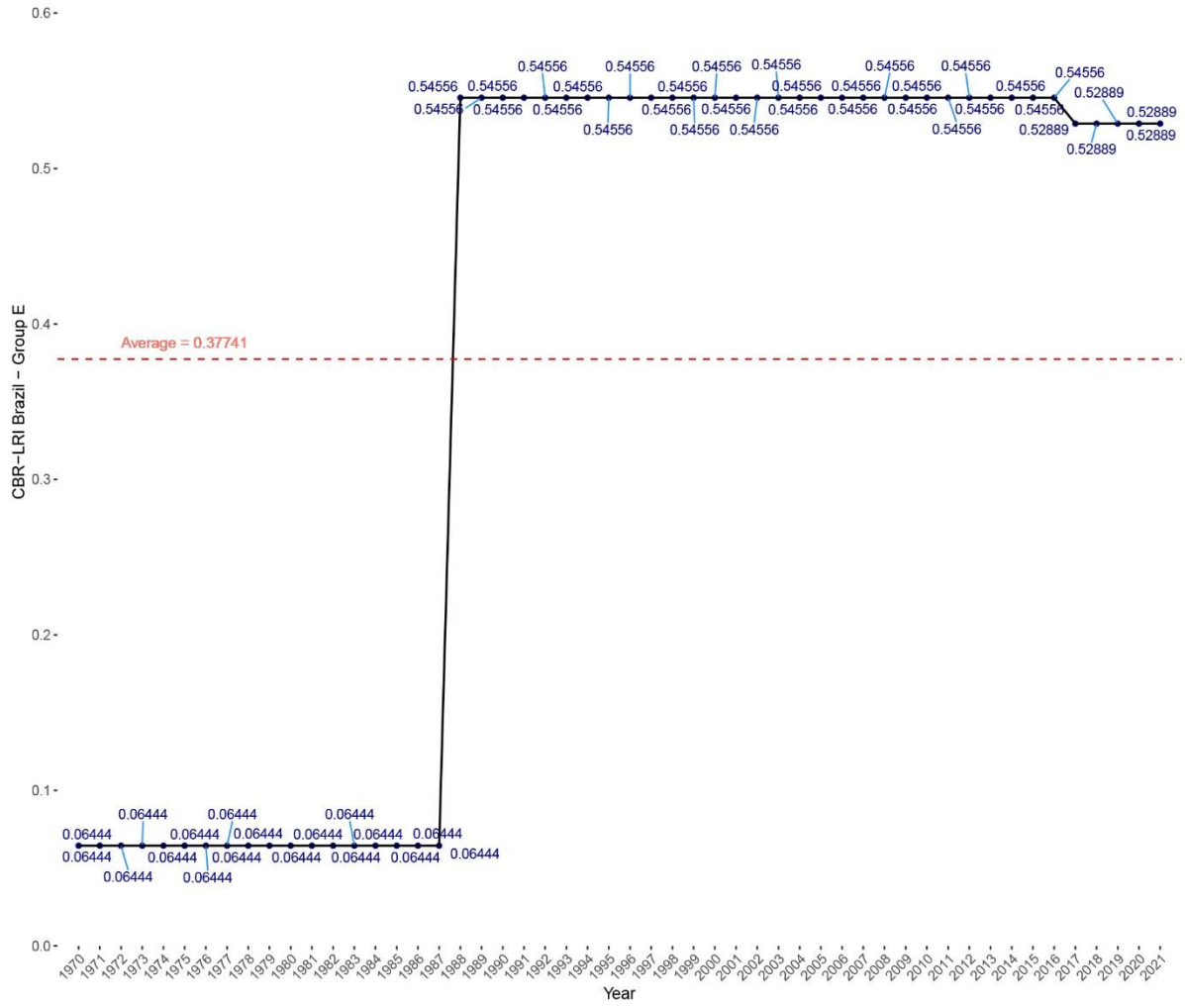
The growth of the group index is largely attributable to the valorisation of collective bargaining and the establishment of the workers' commission at companies with more than 200 employees. However, we also saw the end of mandatory union contributions and the emergence of the hyper-sufficient worker category. Indeed, these data are insufficient to corroborate the support of Botero et al. (2004) that a higher union density is associated to

greater worker protection. However, the value change, while minor, is close to the findings of Campos and Nugent (2012) due to the observation of a variation within the employee representation group, but with a higher incidence of protective regulation.

4.9.5 Group E. Industrial action

Strike regulation was also low until 1988, the year in which it began to show an intermediate value, considering the scale of 0 and 1. In Brazil, the average index for group E is 0.37741 (Graph 6). With the labour reform, the value fell to 0.52889, with a -0.01667 variance in relation to 2016. The historical series shows the Brazilian index at 0.06444 as the lowest value and 0.54556 as the highest value, for a maximum variance of 0.48112. It was found that the new value of group E (0.52889) is greater than the series average (0.37741), and that its variation (-0.01667) in relation to the value before 2017 was roughly 3% of the overall period's greatest variation (0.48112). The reform lowered the group's regulation but only slightly changing the degree of strike regulation in the country.

Graph 6 - New CBR-LRI Brazil (1970-2021). Group E. Industrial action



Source: Prepared by the Author (2022).

The decrease in the value of the group was due to the valorisation of conciliation before the outbreak of the stoppage of activities by the workers, although it did not significantly influence the regulation of strikes in Brazil. The outcome is consistent with Yeung's (2017) assessment since it did not express the strong optimism of labour reform supporters or the excessive concern of reform opponents, such as unionists.

4.10 Comparative Classification Of Brazil's New Labour Regulation Index

According to the CBR-LRI released by Adams, Bishop, and Deakins (2017), Brazil was ranked 74th out of 117 nations in the index until 2013, if ranked in ascending order, that is, from the lowest to the greatest work regulation. In descending order, that is, from highest to lowest regulation, Brazil ranked 44th. Considering the revision until 2013, the country moved to the 90th position, in ascending order. In the opposite direction, Brazil ranked 28th. Finally, in a simulation that compares the new CBR-LRI for Brazil (1970-2021) with the values of the other 116 nations up to 2013, Brazil ranks 64th in ascending order of labour regulation and 54th in descending order (table 8).

Table 8 – CBR-LRI classifications for Brazil. CBR-LRI revision (2013). Revision and update (2021).

CBR-LRI. Brazil	CBR-LRI position (2013)	Author revised position (2013)	Author revised and updated position (2021)
Ascending order	74	90	64
Descending order	44	28	54

Source: Prepared by the Author (2022).

Despite the simulation using numbers from different years, the decrease in the country's regulation level of -0.05350 shows that the labour reform may have resulted in a modification capable of adjusting 26 positions for Brazil. Furthermore, it was found that the average index of the 116 countries of the CBR-LRI is 0.50387. Thus, the new index for Brazil (0.52925) remains above the average for the group of countries.

According to Adams, Bishop, and Deakin (2017), the new CBR-LRI and simulation results do not disclose whether the Brazilian regulatory environment is better or worse than before the labour reform, because the index alone cannot provide that answer. Nonetheless, the findings imply that the 2017 reform pushed the country's labour regulations toward greater flexibility in worker relations. This conclusion is consistent with the research of Adams et al. (2017), as the new index is a normative revelation instrument that can be employed in empirical and interpretive analyses to gain a better understanding of labour regulation.

5 CONCLUSION

The survey updated and presented Brazil's new CBR-LRI. The country's labour regulation index currently stands at 0.52925, representing a 9.18% decrease. This variance resulted from the 2017 labour reform, which altered the statutory framework governing different forms of employment, working time, dismissal, employee representation, and industrial action. The concept of labour reform was found to be associated with the result of a decrease in the Brazilian index. There was also a considerable regulatory difference between the military period and the time following the 1988 Constitution, implying that re-democratization had a greater impact on labour regulation than the main type of political authority that dominated the country during the democratic era. The data also indicate that the labour reform aimed Brazilian regulation to make labour relations more flexible, with the valorisation of negotiation between parties and the development of new forms of employment and global technologies.

The composition of the Brazilian index over time, as well as the weight of the reform on the groups of variables of the new CBR-LRI for the country were assessed, and it was concluded that the labour reform reduced, in a large proportion, the regulation of different types of employment, working time, and dismissal, and, to a lesser extent, increased regulation of employee representation and decreased strike regulation. The results indicate that the reform addressed current labour relations characteristics that are not related with classic labour law assumptions, such as the intermittent contract and the concept of hyper-sufficient employees. The data revealed a natural fluctuation in regulation over time, with a certain prevalence of worker protection after 1988. It was also determined that the labour reform may have resulted in a change capable of altering 26 positions for Brazil, and that the country's new index remained higher than the average for the group of CBR-LRI countries.

The new labour regulation in Brazil following the 2017 labour reform does not imply a more dynamic labour market or fewer job opportunities, nor does it suggest a regulatory framework with little protection or that favours capital. The country's new CBR-LRI is

incapable of answering these queries on its own. The index should be used as a complement to analyses of factors and specific settings, which research the concrete situation using quantitative and qualitative methodologies in order to establish the appropriate levels of labour regulation to be adopted by Brazil.

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