The Milei Government and the Curtailment of Collective Action in Argentina

by Mauro Pucheta

1. Introduction

The right to strike has a long tradition in Argentina, forming a central element of the country's constitutional and legal framework since the 1949 Constitution and its replacement by the 1957 Constitution. Article 14 bis of the 1957 Constitution explicitly guarantees the freedom of trade union organisation, the right to engage in collective bargaining, and the right to strike, embedding labour rights within Argentina's democratic and social order. These protections are further reinforced by Argentina's ratification of key International Labour Organisation (ILO) instruments, including Conventions Nos. 87, 98, 151, and 154, which protect freedom of association, collective bargaining, the right to collective action, and protection against anti-union discrimination.

Against this historical backdrop, the labour reforms advanced by the administration of President Javier Milei mark a profound break with the constitutional tradition of robust collective protections. The government frames its agenda as a necessary response to a decade of economic stagnation and institutional inefficiency. However, many of the measures pursued since December 2023 reveal an underlying project aimed at weakening organised labour, both as an economic actor and as a political counterweight. The reforms do more than deregulate labour markets: they seek to redefine the relationship between workers, employers, and the State by recasting collective rights as distortions to market freedom.

The objective of this article is to briefly analyse the extent to which Milei's labour reform programme restricts the right to collective action by examining its ideological foundations, institutional strategies, and substantive legal mechanisms. Through this analysis, the article argues that the current reform trajectory embodies a paradoxical form of libertarian authoritarianism: a discourse of radical market freedom deployed to justify increasing constraints on democratic labour participation. This inquiry thus contributes to broader debates on democratic erosion in the labour sphere, the transformation of Latin American neoliberalism, and the tension between economic libertarianism and collective labour rights.

2. Milei's Labour Law Ideological Reform

The labour reform project of the Milei administration cannot be understood without reference to its ideological underpinnings. Milei situates himself within the libertarian tradition inspired by the Austrian School of Economics, particularly the works of Ludwig von Mises and Friedrich Hayek, whose resolutely anti-Keynesian and anti-collectivist positions shape his radical laissez-faire convictions. His intellectual influences also include Murray Rothbard, who extended Austrian economics into *paleolibertarianism*, an ultra-minimalist political philosophy advocating for the

privatisation of public services, the dismantling of State welfare structures, and a social order grounded in voluntary institutions such as families, firms, and religious communities.[1] At the centre of Milei's discourse lies a militant libertarianism that frames State intervention as intrinsically corrosive to individual freedom and economic performance. Public authority, in his narrative, is the primary cause of social and economic dysfunction:

"...faced with the theoretical demonstration that state intervention is harmful – and the empirical evidence that it has failed could not have been otherwise – the solution proposed by collectivists is not greater freedom but rather greater regulation, which creates a downward spiral of regulations until we are all poorer and our lives depend on a bureaucrat sitting in a luxury office."[2]

Within this worldview, the State is not a guarantor of rights but an obstacle to spontaneous market order and voluntary association. Labour is re-conceptualised as a market commodity, governed not by social protections or collective institutions but by the voluntary exchange between individual workers and employers. Employment becomes a bilateral contract where labour is simply traded for remuneration; trade unions, in turn, are construed as monopolistic cartels that restrict competition, inflate labour costs, and suppress individual freedom of contract. Labour regulations, particularly job-security norms and collective rights, are dismissed as distortions that impede productivity and economic efficiency.[3]

Central to Milei's narrative is the assertion that Argentina's economic crisis stems from an excessively protective labour regime. High severance pay, strong job-stability guarantees, and dense regulatory frameworks are portrayed as obstacles to investment, hiring, and productivity. The ideological goal of lowering "labour costs" thus underlies many of the proposed reforms, which seek to replace protective labour standards with greater contractual freedom for employers. The government also invokes the notion of the *industria del juicio* – a purported overuse or abuse of the legal system by workers and lawyers – as a justification for reshaping labour institutions. According to this view, labour litigation imposes significant financial and legal burdens on employers, discouraging business activity. By framing labour courts as instruments of opportunism, the administration grounds its proposals to limit judicial remedies, reduce employer liability, and restrict workers' access to effective legal recourse.

Furthermore, the Milei administration presents trade unions not as democratic interlocutors but as structural impediments to market liberalisation and economic efficiency. This portrayal aligns seamlessly with longstanding neoliberal prescriptions that view organised labour as an institutional distortion to be minimised or contained. As Óscar Ermida Uriarte observed:

"...in labour matters, the neoliberal recipe proposed reducing State protection of the individual worker to the limits of what is politically possible, and the State's limitation of trade union action."[4]

This observation captures the continuum within which Milei's programme operates: the reforms do not constitute a rupture with Argentina's neoliberal cycles of the 1990s but rather a radical

---

[1] CRUZ FERRE, J.: "The Rise of Javier Milei and the Emergence of Authoritarian Liberalism in Argentina", *Latin American Research Review*, 2025, p. 1.
[2] WORLD ECONOMIC FORUM: "Davos 2024: Special Address by Javier Milei, President of Argentina", 17 enero 2024, disponible en: www.weforum.org/stories/2024/01/special-address-by-javier-milei-president-of-argentina/
[3] LEVINE, P.: "The Libertarian Critique of Labor Unions", *Philosophy & Public Policy Quarterly*, 2019, vol. 21, p. 17.
[4] ERMIDA URIARTE, O.: "La política laboral de los gobiernos progresistas", *Revista Nueva Sociedad*, 2007, nº 211, septiembre-octubre.

intensification of them, cloaked in a renewed libertarian rhetoric. From this ideological foundation emerges the administration's labour agenda: a sweeping programme of deregulation, flexibilisation, and the erosion of collective rights. As the next sections demonstrate, the reforms extend beyond mere economic liberalisation and instead reshape the procedural, institutional, and substantive dimensions of democratic labour participation, particularly the right to collective action and the right to strike.

3. Limited Democratic Procedural Dimension

A defining feature of President Javier Milei's early administration has been not only the substantive ambition of its reform programme but the illiberal procedural strategy through which these reforms have been advanced. Within days of taking office in December 2023, Milei circumvented ordinary legislative channels by issuing Emergency Decree No. 70/2023 (DNU 70/23), a sweeping instrument purporting to amend or repeal hundreds of legal provisions under the justification of an urgent economic crisis. While the Argentine Constitution does permit the use of emergency decrees, Article 99(3) restricts their deployment to situations of necessity and urgency in which Congress is unable to convene. In this instance, however, Congress had already been summoned to extraordinary sessions, including for the very measures that the decree sought to impose. The executive's invocation of urgency, therefore, appeared not as a response to institutional paralysis but as a deliberate attempt to bypass democratic deliberation.[5]

One of the most contentious components of DNU 70/23 was its extensive "Labour Chapter" (Title IV), which undertook a radical restructuring of labour standards by weakening dismissal protections, extending probationary periods, limiting employer liability, and curtailing trade union prerogatives. These reforms were presented as necessary tools for economic revitalisation, yet their mode of enactment (through an exceptional executive instrument rather than parliamentary debate) revealed a governance style that privileges unilateral action over democratic consent. In this respect, Milei's methodology displays an authoritarian streak: while ideologically committed to "freedom" in the economic sphere, his administration demonstrates a willingness to constrain institutional checks and minimise political contestation.

The decree was swiftly met with opposition from Argentina's major trade union confederations, including the CGT and the CTA, which organised mass demonstrations and filed constitutional challenges. In January 2024, a Buenos Aires Labour Court of Appeal declared Title IV of DNU 70/23 unconstitutional, holding that the government had not demonstrated the conditions of necessity and urgency required to displace the ordinary legislative process.[6] The court emphasised that sweeping reforms to labour rights, given the structural vulnerability of workers, require an inclusive and deliberative debate within Congress. Although the court's ruling suspended the application of the labour chapter pending final review by the Supreme Court, the absence of a definitive judicial resolution continues to produce legal uncertainty.

Undeterred by judicial scrutiny, the administration continued pursuing its agenda through alternative institutional channels. In early 2024, Milei proposed the *Pacto de Mayo*, a set of ten principles intended to serve as the ideological foundation for economic reconstruction. More concretely, the government advanced a comprehensive legislative bill, eventually enacted in July 2024 as Law 27.742, the *Bases and Starting Points for the Freedom of Argentines Act* ("Ley de

[5] MARTICORENA, C. y SOUL, J.: "Far Right Times in Argentina: Social and Labour Conflicts at the Beginnings of Milei's Government", *Global Labour Journal*, 2024, vol. 15, nº 2, p. 130.
[6] CÁMARA NACIONAL DE APELACIONES DEL TRABAJO, Sala de Feria: *Confederación General del Trabajo de la República Argentina c/ Poder Ejecutivo Nacional s/ Acción de amparo*, 30 enero 2024, Expte. 56.862/23.

Bases"). While this law did undergo parliamentary debate, the process was marked by severe limitations: expedited timelines, restricted amendments, and minimal engagement with trade unions, civil society organisations, or labour experts. Although some of the most aggressive collective labour law reforms were removed due to sustained union pressure, the law retained several key deregulatory measures originally contained in DNU 70/23.

Taken together, the strategic reliance on emergency decrees, truncated legislative procedures, and limited social dialogue suggests an emerging pattern of illiberal proceduralism: a governing style that reduces democratic participation and institutional counterweights in order to accelerate a transformative, market-driven agenda.

4. The Attack on the Right to Collective Action

Under Argentina's current legal framework, the right to strike is constitutionally protected by Article 14 bis and regulated, for essential services, through Law 25.877. Article 24 of this legal instrument adopts a restrictive and enumerative approach: only a closed list of activities (health and hospital services, the production and distribution of potable water, electricity and gas, and air traffic control) are considered essential services in the strict sense. Any extension of this list is permissible only under exceptional circumstances and must be authorised by an independent *Comisión de Garantías*, following ILO standards. The law thus ensures that limitations on collective action remain exceptional, proportionate, and subject to tripartite oversight.

Milei's labour reform agenda radically departs from this carefully balanced model. Article 97 of DNU 70/23 attempted to replace the existing mechanism with a sweeping executive-driven reclassification of both essential services and what it termed "activities of transcendental importance". This unilateral approach designated vast sectors (from port services, fuel distribution, and education to logistics, banking, food production, industrial manufacturing, and telecommunications) as either essential or transcendental. Many of these activities had been explicitly rejected by the ILO Committee on Freedom of Association as falling outside the category of essential services, including port cargo handling, airline pilots, fuel distribution, and general education.[7] As Raffaghelli notes, the decree deployed a "false legal device" to justify restrictions on virtually any activity, thereby reducing the right to strike "to its minimum expression".[8]

The consequences of this reclassification were profound. DNU 70/23 required minimum service levels of 75% in essential sectors and 50% in transcendental ones, thresholds that render collective action largely symbolic and fundamentally undermine workers' bargaining power. This approach contravenes both ILO doctrine and the constitutional requirement that restrictions on fundamental rights be enacted through law, not executive decree.[9] As previously mentioned, in January 2024, a Buenos Aires Labour Court of Appeal suspended the labour chapter of DNU 70/23, citing its procedural and substantive incompatibility with constitutional and international standards.

---

[7] TRIBUZIO, J. E.: "Primeras impresiones sobre la regulación del derecho de huelga contenida en el artículo 97 del Decreto de Necesidad y Urgencia 70/2023", *Revista de Derecho Laboral Actualidad. Dossier Nº 8: Doctrina Digital. La reforma laboral del Decreto de Necesidad y Urgencia 70/2023*, 2024, pp. 132-141.

[8] RAFFAGHELLI, L.: "La libertad sindical en riesgo frente a la reforma del DNU 70/2023", *Revista de Derecho Laboral Actualidad. Dossier Nº 8: Doctrina Digital. La reforma laboral del Decreto de Necesidad y Urgencia 70/2023*, 2024, pp. 116-131.

[9] TRIBUZIO, J. E.: "Primeras impresiones sobre la regulación del derecho de huelga contenida en el artículo 97 del Decreto de Necesidad y Urgencia 70/2023", *Revista de Derecho Laboral Actualidad. Dossier Nº 8: Doctrina Digital. La reforma laboral del Decreto de Necesidad y Urgencia 70/2023*, 2024, pp. 132-141.

Despite this, the Milei administration renewed its efforts in May 2025 through DNU 340/25, nominally a decree concerning the merchant marine sector but in practice a vehicle for reintroducing the expanded lists of essential and transcendental activities. Once again, the decree imposed minimum service obligations between 50% and 75%, effectively reinstating much of the suspended regime. This decree, too, was swiftly challenged. Ruling in cases brought by the CGT and ATE, found the measure unconstitutional primarily on procedural grounds: Congress was in ordinary session, and the government failed to demonstrate the exceptional circumstances required by Article 99(3) to legislate by emergency decree. The rulings underscored that vague invocations of economic crisis and the 'mere' modification of one legislative instrument, but the modification of the entire system established by Article 24 of Law 25.877.[10]

The invention of "activities of transcendental importance" (an unusual category in comparative labour law and unsupported by international standards) reveals the broader political logic of these reforms. The expansion of "non-strikeable" sectors is not a technical adjustment but a structural attempt to redefine the constitutional balance between labour rights and market governance. That the judiciary has twice suspended these measures underscores both their constitutional fragility and their substantive departure from Argentina's obligations under ILO Conventions 87 and 98.

5. Unfair Dismissal as a Stealth Attack on the Right to Collective Action

Whereas the administration's public discourse has focused on "modernising" labour relations and curbing what it labels *industria del juicio*, its reforms introduce a more subtle instrument: the creation of new categories of conduct that, if performed in the context of collective protest, constitute "objective" grounds for dismissal. What initially appears as a technical modification is in fact a structural intervention that reshapes the boundaries of lawful labour conflict.

DNU 70/23 first advanced this strategy by proposing the insertion of a new Article 20 *ter* into Law 23.551. The provision enumerated a series of "prohibited actions" deemed *very serious infractions*: obstructing the work of those who do not adhere to a strike; blocking or occupying workplaces; preventing the entry or exit of persons or goods; or causing damage to company property or retaining it without authorisation. Once verified as acts of "direct trade union action," these behaviours would allow employers, *inter alia*, to dismiss individual workers.

As commentators immediately noted, these scenarios correspond to situations historically treated by Argentine labour courts as part of the wide repertoire of collective action in moments of acute conflict. Far from representing criminal conduct, they have been assessed in light of the constitutional and international guarantees that protect collective self-defence. Regulating them as inherently illicit, particularly through rigid statutory categories, therefore amounts to a criminalisation of union prerogatives and assembly rights. As Raffaghelli observes, atypical measures such as blockades or temporary occupations often arise in contexts of extreme vulnerability (mass dismissals, sudden factory closures, wage arrears) where they may constitute the only effective means to prevent irreparable harm to workers' livelihoods.[11]

---

[10] CÁMARA NACIONAL DE APELACIONES DEL TRABAJO: *Confederación General del Trabajo de la República Argentina c. Poder Ejecutivo Nacional s/ Acción de Amparo*, 9 junio 2025, Expte. 19.024/2025; LITTERIO, L. H.: "Constitucionalidad y eficiencia del DNU 340/2025 en materia de huelga en servicios esenciales", *La Ley*, 2025, Año LXXXIX, nº 146, Tomo LA LEY 2025-D.

[11] RAFFAGHELLI, L.: "La libertad sindical en riesgo frente a la reforma del DNU 70/2023", *Revista de Derecho Laboral Actualidad. Dossier Nº 8: Doctrina Digital. La reforma laboral del Decreto de Necesidad y Urgencia 70/2023*, 2024, pp. 116-131.

Although the labour chapter of DNU 70/23 was suspended by the judiciary, the legislative strategy did not end there. The *Ley de Bases* (Law 27.742) reintroduced part of this framework by amending Article 242 of the Labour Contract Law (LCT), Argentina's general provision on dismissal for "just cause." The reform incorporates a 'legal presumption against the worker', establishing that participation in blockades or workplace occupations may constitute *per se* a sufficient ground for dismissal.[12] This represents a departure from long-standing doctrine, under which judges assessed misconduct through a contextual and proportionality-based evaluation. The new provision attempts to bypass this judicial scrutiny: if the conduct falls within the statutory list, the dismissal is presumptively fair.

The implications are significant. First, the reform targets not only trade union leaders but any worker participating in collective acts, including representatives elected outside traditional union structures. Second, by giving employers *ex ante* certainty that certain forms of protest justify dismissal, the law operates as a form of disciplinary intimidation. Its chilling effect on collective action is immediate and predictable. As several scholars have argued, the intent is to weaken the right to strike through the "via of reprisal," instilling fear and discouraging participation.[13] In substance, then, the creation of "objective misconduct" constitutes the stealth dimension of Milei's assault on collective action. It shifts the balance of power decisively toward employers, dissuades workers from engaging in meaningful protest, and entrenches a neoliberal vision in which labour rights are reconceived as obstacles to economic efficiency rather than foundational guarantees of democratic participation.

This approach is irreconcilable with the jurisprudence of the Inter-American Court of Human Rights that has explicitly affirmed that the right to strike is a fundamental component of freedom of association and an essential means for workers to defend their interests.[14] By categorically deeming certain forms of disruptive action illegitimate, the Milei administration reduces the right to strike to a hollow formalism: recognised in principle but rendered ineffective in practice.

Despite the administration's mixed success, the offensive against collective action is far from over. The recent electoral gains of Milei's coalition in the October 2025 midterm elections have strengthened the government's mandate and reshaped the political landscape. Statements from leading officials and legislative allies increasingly frame the current reforms as merely the "first stage" of a broader transformation. In this context, it is reasonable to anticipate renewed attempts to "complete" the labour reform agenda, including further efforts to curtail the powers of trade unions, restrict the autonomy of workplace representatives, and narrow the practical scope of the right to collective action. The trajectory thus far suggests that labour law will remain a central battleground in the administration's project to remake Argentina's institutional order.

Mauro Pucheta
https://orcid.org/0000-0002-8506-5932
Lecturer, Kent Law School, University of Kent, UK.
PhD, University of Nottingham, UK.
m.l.pucheta@kent.ac.uk

[12] TOPET, P.: "La Ley Bases y la modificación del artículo 242 de la LCT", *Revista de Derecho Laboral Actualidad*, 2024, Suplemento Especial: Ley 27.742, p. 223.
[13] RAFFAGHELLI, L.: "La libertad sindical en riesgo frente a la reforma del DNU 70/2023", *Revista de Derecho Laboral Actualidad. Dossier Nº 8: Doctrina Digital. La reforma laboral del Decreto de Necesidad y Urgencia 70/2023*, 2024, pp. 116-131.
[14] CORTE INTERAMERICANA DE DERECHOS HUMANOS: *Opinión Consultiva 27/2021 sobre Derechos a la libertad sindical, negociación colectiva y huelga*, 5 mayo 2021, para. 98.