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| ARTIGO

Normative power and the consolidation of Brazilian labor court: The history of jurisprudence about collective labor law

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Abstract
In this essay we analyze the normative power of labor law, its application and the attempts to change it over the years, among the period between 1945 and 1964. The institution normative competence can be briefed as the power of elaborating "general and abstract rules" for collective labor law, applied exclusively in concrete cases, to professional and economical categories in litigation, according to 1946's Brazilian Constitution. The period is known by the increase of industrialization and workers' migration from the country to the urban areas. One of the consequences of this phenomenon was the increase in the number of workers hired according *Consolidação das Leis do Trabalho* (*CLT*), a law created in 1943 to guarantee certain rights for the workers. We selected a number of collective bargaining agreements regarding questions such as increase of the salaries and social benefits, better work conditions, work vinculation and union trade representation. With the research we could better comprehend collective dynamics of the demands made by trade unions for the labor law, as well as the multiple variables put in action by workers and employers aiming to have their own thesis recognized, especially when the subject was the increase of wage.

Keywords: history of labor law; social rights; normative competence.

O poder normativo e a consolidação da justiça do trabalho brasileira: a história da jurisprudência sobre o direito coletivo do trabalho

Resumo
O presente artigo analisa o poder normativo da justiça do trabalho, sua aplicação e tentativas de modificá-lo ao longo dos anos 1945 a 1964. A competência normativa da instituição pode ser resumida como o poder de elaborar "normas gerais e abstratas" no *âmbito* do direito coletivo do trabalho, aplicado exclusivamente ao caso concreto, às categorias profissionais e econômicas em litígio, conforme garantia a Constituição de 1946. O período é conhecido pela intensificação da industrialização e da migração dos trabalhadores do campo para a cidade. Uma das consequências diretas desses fenômenos foi o aumento no número de trabalhadores vinculados à Consolidação das Leis do Trabalho (CLT), criada em 1943. Metodologicamente, foi selecionado um conjunto de dissídios coletivos que trata de questões ligadas ao aumento da remuneração dos trabalhadores, dos benefícios sociais, das melhorias das condições de trabalho, do vínculo de trabalho e da representação sindical. A investigação permitiu compreender a dinâmica coletiva dos encaminhamentos dos sindicatos à justiça do trabalho, além das múltiplas variáveis acionadas pelos trabalhadores e empregadores com o intuito de terem suas teses reconhecidas, principalmente em relação aos reajustes salariais.

Palavras-chave: história da justiça do trabalho; direitos sociais; competência normativa.

La compétence normatif et la consolidation de la justice du travail brésilienne : l'histoire de la jurisprudence en matière de droit collectif du travail

Résumé
Cet article analyse la compétence normatif de la justice du travail brésilienne, leur utilisation et aussi les tentatives de la modifier entre 1945 et 1964. En bref, la compétence normatif de la Justice du Travail est le pouvoir d'élaborer des règles générales abstraites dans le cadre du droit collectif du travail, appliquée uniquement au cas spécifique, aux catégories professionnelles et économiques en litige, tout en assurant les directives de la Constitution brésilienne de 1946. Dans cet période il y a eu une intensification de l'industrialisation et de l'exode des travailleurs vers les grands villes. En conséquence de ce phénomène, il y avait une augmentation du nombre de travailleurs attachés a la Consolidation des Lois du Travail (CLT), en d'autres termes, la législation brésilienne du travail, créé en 1943. En vue méthodologique, on a choisi un ensemble d'actions en justice de négociations collectives à propos de l'augmentation de salaires, de sécurité sociale, d'amélioration des conditions du travail, du lien du travail et, enfin, de la représentation syndicale. La recherche nous permet de comprendre la dynamique de demandes collectives des syndicats à la justice du travail, en plus de plusieurs variables utilisées par les travailleurs et par les employeurs afin d'avoir leur thèses reconnue, notamment au cas des augmentations de salaires.

Mots-clés: histoire de la Justice du Travail (Brésil) ; droits sociaux ; compétence normatif.

El poder normativo y la consolidación de la justicia del trabajo brasileña: la historia de la jurisprudencia sobre el derecho colectivo del trabajo

Resumen
El presente artículo analiza el poder normativo de la justicia del trabajo, su aplicación e intentos de cambiarlo a lo largo de los años 1945 a 1964. La competencia normativa de la institución se puede resumir como el poder de elaborar "normas generales y abstractas" en el ámbito del derecho colectivo del trabajo, aplicado exclusivamente al caso concreto, a las categorías profesionales y económicas en litigio, según lo garantizaba la Constitución de 1964. Se conoce el período por la intensificación de la industrialización y la migración de los trabajadores del campo para la ciudad. Una de las consecuencias directas de esos fenómenos fue el aumento del número de trabajadores vinculadores a la *Consolidação das Leis do Trabalho* (*CLT* — reglamentación de las leyes del trabajo en Brasil) creada en 1943. Metodológicamen fue seleccionado un conjunto de acuerdos colectivos que tratan de cuestiones relacionadas al aumento de la remuneración de los trabajadores, de los beneficios sociales, de las mejorías de las condiciones de trabajo, del vínculo de trabajo y la representación sindical. La investigación permitió comprender la dinámica colectiva de los direccionamientos de los sindicatos a la justicia del trabajo, además de las múltiples variables accionadas por los trabajadores y empleados con la intención de tener su tesis reconocida, principalmente en relación a los ajustes salariales.

Palabras-clave: historia de la justicia del trabajo; derechos sociales; competencia normativa.

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Labor legislation and labor courts have been revisited in the historiography of labor in recent years, which has altered the perception of an absolute state which regulated labor and completely subjected workers to a restrictive structure.[2] The focus has instead become relations between unions, the state, workers, and employers, in an arena of disputes involving mobilization in workplaces, but also on the streets and in the courts.[3]

In this article, I will analyze the normative power of the labor courts, its application, and attempts to modify it between 1945 and 1964. The normative competence of the institution can be resumed as the power to prepare 'general and abstract norms' under the auspices of the collective right to work, applied exclusively to concrete cases, and to the professional and economic categories in litigation, as guaranteed by the 1946 Constitution. The period is recognized by the intensification of industrialization and the migration of workers from the countryside to the city (Silva and Negro, 2010). One of the direct consequences of this phenomena was the increase in the number of workers covered by the CLT (*Consolidação das Leis do Trabalho* – Consolidated Labor Laws), created in 1943.

At the end of the 1950's, according to Paulo Emílio Ribeiro de Vilhena, who defended his doctorate in law in 1961 about the importance of the normative power, its meanings and limits were "pacified, doctrinaire, and based on jurisprudence." According to Vilhena, normative power was exercised through the normative sentence, which goes beyond ordinary legislation and comes to be a source of law, irradiating "judicial and abstract effects for the future" (Vilhena, 2006, p. 17). Nevertheless, its application was specifically restricted to the professional categories involved in the collective bargaining being examined by the labor court.[4] In other words, judicial decisions about collective bargaining had the 'force of law,' but applied solely to the professional categories in litigation.

In practice, however, the effects of the normative sentence could extrapolate the restrictions imposed on a specific group of workers, since a determined professional category whose rights were supported by a normative decision could serve as 'inspiration' to other unions to demand the same 'benefit.' This reality, which escapes the books of doctrine of the period, was a direct consequence of the normative decision. The result of the collective process, in addition to influencing the demands of workers, also impacted on the expansion of labor demands, as is the case of the expansion of the *13th salary* to all Brazilian employees.

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[2] Studies about Brazilian labor legislation have until recently pointed to the Brazilian state as the protagonist in the judicial scenario, "as if the creation of legal norms of the 'protection of labor' had completely removed the action of workers." See: Rowland (1974), Munakata (1984), and Vieira (1989).

[3] The change in focus has as its precursors the works of Gomes (2005), Lopes (1988), French (2001), Silva (1995) and Varussa (2002). And more recently the doctoral dissertation of Souza (2007), which reaffirmed the importance of the struggles of workers in achieving social rights. In recent years, we have seen the expansion of similar approaches to these, principally in research carried out in Unicamp, UFPE, the Labor Court Memorial in Rio Grande do Sul, UFRGS, and UFPel.

[4] To justify the 'pacification' of the question, Vilhena uses as references jurists and doctrinaires with publications in the 1953 – 1960 period, including: Moraes Filho, Süssekind, Maranhão, Vianna, Cesarino Júnior, and Russomano.

Alterations in the functioning of the labor courts

Researching the system to find bills submitted to the Brazilian congress between 1946 and 1964, the existence of an intense debate between the parliamentarians about the alternations in law and in the labor courts could be noted. 204 bills were found proposing the creation of new laws involving the theme of the labor courts. Amongst these, 20 explicitly dealt with the expansion of the number of Boards of Reconciliation and Judgment (*Juntas de Conciliação e Julgamento* - JCJs) and regional courts and their operations, and alterations in the CLT, the normative power, and the strike law.[5]

The large number of legislative proposals covering the labor courts strengthens the hypothesis that the institution had a decisive role in negotiations involving the working class and that the various sectors of Brazilian society represented in Congress saw a need to interfere in its organization, especially in the period close to the 1964 coup, when the institution had already become an essential reference in relations and conflicts between capital and labor (Silva, 2013).

Of the bills submitted to the Brazilian Congress in the period between the 1946 Constitution and the 1964 coup, some call attention since they dealt with the organization of the labor courts. The first was submitted on 31 July 1947[6] and aimed to regulate the organization of the regional courts and the Superior Labor Court (*Tribunal Superior do Trabalho* - TST), dividing it into first and second category institutions:[7] the 1st (Rio de Janeiro state) and the 2nd regions (the states of São Paulo and Paraná) were classified as the first category and consisted of seven ordinary magistrates, plus four judges[8] representing employer and worker unions.[9]

Of the 20 legislative proposals presented, 17 were not passed, and only three became law. The first bill[10] presented after the 1946 Constitution aimed to regulate the functioning of the institutional structure, with the following titles: courts and judges, lawyers and solicitors, auxiliary services of justice, the notary office of the judge, judicial employees, and general and transitory dispositions. It was proposed in a collegiate manner by the Commission of the Constitution and Justice of the Chamber of Deputies, working its way through

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[5] The other projects basically work with budgetary adjustments and regulations of the careers of justice and the public employees of the institution.

[6] Bill 519, dated 31 July 1947. Other projects with a similar content were submitted to Congress at a later period, such as the case of the bill which gave rise to Law no. 3.492/1958, which raised to the first category the Labor Courts of the 3rd, 5th, and 6th Regions, increasing the number of its judges and increasing the number of new JCJs.

[7] As stated in Decree-Law 9.797, dated 9 September 1946.

[8] The judges representing employer and employee unions were called 'class' judges. Chosen through union elections, they were part of the JCJs, who were composed of two class judges and an ordinary judge. The regional courts and the TST were also composed of class and ordinary judges until the passing of Constitutional Amendment no. 24, in 1999, which extinguished union representation in the labor courts. See: Vieira (1993) and Prunes (1995).

[9] Higher level magistrates, as well as the magistrates of the TST, were directly appointed by the Brazilian president, with the indications of ordinary or union judges (*Diário do Congresso Nacional*, ano II, pp. 4602-4206, 1o ago. 1947).

[10] Brasil. Congresso. Câmara. Projeto de Lei no 519, de 31 de julho de 1947.

Congress between 1947 and 1965, but was not even debated in commissions or in the plenary, and was shelved on 27 November 1965.

In relation to the progress of bills, the government's propositions were submitted by deputies who could be considered as "historical politicians"[11] in the *Partido Trabalhista Brasileiro* (PTB – Brazilian Labor Party), with experience in the labor area and direct participation in the consolidation of Brazilian social legislation. In practice this did not bring any great benefits for passing new laws, due to the reduced number of legislative modifications in the period, since deputies from the opposition and identified with employer sectors also did not manage to have their bills passed.

Of the three projects passed by Congress, one dealt with an amendment to Article 878 of the CLT, which directly covered the question of the implementation of labor court decisions. Bill 3.637/1953, written by Deputy Nelson Omegna, (PTB/SP), was transformed into Law 2.275/1954, which regulated the implementation of labor court decisions. In practice it allowed workers and trade unions to complain about the non-payment of sums granted in judgments without the need to discuss the factual or legal basis of these judgment, in other words, the court decision could not be questioned in the civil sphere.

Another proposition transformed into legislation was Bill 3.960/1953, converted into Law 2.244/1954, which covered the functioning of the labor courts and was sanctioned during the second presidency of Getúlio Vargas, on 30 June 1954. It dealt with the organization of the labor court system by stipulating that the presidents of regional labor courts should send appeals to higher courts that refers to question of the taking office and work of the *juízes vogais* (judges nominated by trade unions or employer representatives) as well as the disposition of the TST (the number of judges, panels of judges), the competences of the president of the TST, and the *corregedor-geral* (Inspector-General) of the Labor Court system.

The 1954 legislation dealt with the procedures used by labor courts, making them equivalent to the common courts. In other words, even with its incorporation in the judicial system in the 1946 Constitution, until 1954 there had been no legal mechanism to regulate how the labor court system functioned as a body within to the judiciary, or even to make its decisions equivalent to the judgments of other federal courts.[12] What calls attention here is that eight years had to pass after the enactment of the 1946 federal constitution for the granting of equivalence between the labor courts and the other courts in the

[11] As an example it is possible to cite Deputy Aarão Steinbruch (PTB/RJ). Graduating in law from the University of Porto Alegre, he worked as journalist in the periodical *Última Hora*, and was director of the prestigious *Revista do Trabalho*, with important publications about the issuing of new laws and the jurisprudence of the labor courts. Complementary information is available at: <http://www12.senado.gov.br/noticias/materias/2012/12/19/aarao-steinbruch-de-advogado-dos-trabalhadores-a-criador-do-13o>. Accessed on: 10 Jan. 2014. In relation to *Revista do Trabalho*, see: Martins (2000).

[12] Prior to the 1954 legislation, the functioning of the labor courts was still based on Decree no. 1.237, from 1939, which stipulated, amongst other prerogatives, that judges and public employees be subordinated to the Ministry of Labor, Industry, and Commerce, which remained unchanged by Decree-Law 2.851, from 1940. In relation to the legal mechanism in question, see: Souza (2012).

judicial system.[13] This delay appears to be a strong indication that in other areas there could also be a certain 'delay' in the implementation of the conquests expressed in the constitution.

Also in relation to the bills that passed through Congress before 1964, of the 20 bills submitted, 17 were proposed by government deputies (of whom 10 were members of the PTB) and one from a mixed commission from Congress. Only two were submitted by opposition deputies, which could signify a certain concern of the executive in relation to the functioning of the labor courts. Perhaps the judiciary was making judgments which displeased the government, principally by often awarding in normative decisions pay increases higher than the official rise in the cost of living indices.

The 1954 legislation dealt with labor court procedures, making them equivalent to those of the common justice system

Bill 1.471/1949 (proposed by the Commission) was the third bill to be passed, becoming Law 4.330 in 1964, shortly after the coup. Originally it was intended to regulate Article 158 of the Federal Constitution, which dealt with court decisions about collective wage bargaining and strikes, with questions related to the normative power of the labor courts being excluded from the bill by the replacement bill passed on 25 October 1955, written by Deputy Carvalho Neto (Social Democratic Party - *Partido Social Democrático* [PSD]/SE]). The exercise of normative power was only changed many years later, when the 1988 Constitution was in force.

In relation to the judgment of collective bargaining, the intention of the project was to regulate the normative competence of the labor courts. In this way, the courts were able to apply the normative power to all concrete cases which were judged within their jurisdiction and in the terms presented in the cases submitted by trade unions, the Regional Labor Bureau (*Delegacia Regional do Trabalho* - DRT), the *Ministério Público* (the Prosecution Service), or even by the president of the Regional Labor Court (*Tribunal Regional do Trabalho* - TRT). They could still set norms and establish wage conditions — also being allowed to extend their judgments to all those who exercised the same profession or economic activity, meeting in their decisions the interests of the collectivity and the principles of equity and social justice (Brasil, 1949).

[13] There were conflicts of interest in relation to the incorporation of the labor courts within the judiciary, with some stating that labor court judges did not have the same rights and competences as the magistrates of common justice. According to Ives Gandra da Silva Martins Filho, it was necessary for the labor court to appeal to the STF (Supreme Court) to resolve the question, which recognized the rights and guarantees granted to Brazilian magistrates and the common judges of the labor courts. See: Martins Filho (2005).

The normative power was the motive of many divergences when Oliveira Vianna,[14] aiming to regulate the article of the 1934 Constitution which allowed for the creation of the labor court system, submitted a controversial bill to Congress. In the following debate the principal interlocutors were Waldemar Ferreira[15] and Oliveira Vianna. The principal controversy was related to the possibility of the labor courts intervening in the collective bargaining, when direct negotiation was unsuccessful, and thereby being able to create norms and working conditions for the relevant categories. In other words, with normative power, labor courts could exercise legislative functions.

According to Ligia Lopes Fornazieri (2013), the normative power of the labor court system was the principal point of divergence between Waldemar Ferreira and Oliveira Vianna, who represented two positions in relation to the functioning of labor courts: the *civilists*, those who thought of normative power as an affront to the separation of powers expressed in the Constitution, and those who thought they were creating a branch of law different from the common legal system, with the labor court system being a special type of justice capable of creating judicial norms applied to professional categories in concrete cases. According to Oliveira Viana, the *civilists*, specialists in commercial or procedural law, and even important lawyers overanalyzed publications about issues related to the legal world, no longer observing the "realities of societies" and their impacts on the "constitutional superstructure of the state."

In other words, a new interaction between the world of law and that experienced by citizens was necessary (Vianna, 1938). This power composed the 'foundational logic'[16] of the labor court system to decide and modify norms in questions of collective bargaining. In other words, it was at the center of decision making of the labor court system and was intertwined in its creation.

It is therefore necessary to expand the study about normative power, principally to understand how it has been applied throughout its history. Recent research involving this question has concentrated on the pre-1964 period, which ends up limiting comparisons about how the labor court system used this prerogative over the distinct period of Brazilian political history, especially during the so-called 'years of lead,' the worst period of the military dictatorship.

The discussion in relation to this power regained importance in the re-democratization process in the context of the emergence of the so-called 'new trade unionism.'[17] The most combative trade unions, especially in the *ABC Paulista* region near São Paulo city, demanded the reformulation of trade inion and labor legislation with new regulations, aiming at strengthening worker

[14] An important jurist and thinker active in various areas of law, who drafted the first bill for the creation of labor courts submitted to Congress in 1934, he was a consultant of the Ministry of Labor, Industry, and Commerce, and the author of various works: *Problemas de direito corporativo* (Rio de Janeiro: José Olympio, 1938); *Problemas de organização e problemas de direção: povo e o governo* (1. ed. Rio de Janeiro: José Olympio, 1952); *Instituições políticas brasileiras* (São Paulo: José Olympio, 1949. 2 v.).

[15] Waldemar Ferreira was Full Professor of Commercial Law in Universidade de São Paulo and was also a federal deputy. He was directly involved in the controversies over the creation of the labor court. In relation to this, see: Ferreira (1938).

[16] Pessanha (2002). In relation to pre-1964, see: Silva (2013) and Corrêa (2013).

[17] In relation to new trade unionism, see: Sader (1988) and Mattos (1998).

organizations and the democratization of relations between labor and capital. A significant part of the trade union movement saw in this normative power, as they still do, an obstacle to this strengthening.

One of the first findings in relation to the application of normative power during its history is the existence of a limited amount of research in the area. Analyses have concentrated on the interpretations on the "harmful deeds of the normative power" rather than on the judgments made by the labor courts.

One of the few investigations which dealt with the theme of normative decisions was limited to researching the *acórdãos* (or decisions) of the 2nd Regional Labor Court (Sitrângulo, 1978), ignoring the demands of the working class and the petitions of the Labor Prosecution Service (*Ministério Público do Trabalho*) and the labor court system itself and not comparing them with the decisions.

The limiting of the analyses about the functioning of the normative power led me to research the *acórdãos* of the Federal Supreme Court (*Supremo Tribunal Federal* - STF) in the democratic period of 1946 - 1964. In the STF search system, I used the parameters 'labor courts and normative power,' cross-tabulating these with *acórdãos* which dealt with the two themes. Six *acórdãos* were found which made reference to the preponderant interpretation in the STF about the effectiveness of the normative power of the labor court in questions related to collective bargaining.

The six *acórdãos* found were related to appeals taken by employer federations against normative sentences which basically expanded worker pay between 1951 and 1952. The principal argument is that the 1946 Constitution had not conceived the normative power, so that there was a need for a law to regulate labor court collective bargaining judgments.

In 1951 the judges of the STF consolidated the decision that the labor court had the "explicit and exclusive" function of reconciling and judging individual and collective bargaining between employees and employers, as well as the other controversies arising out of labor relations governed by special legislation: "These courts, thereby, have the power of issuing normative decisions, setting norms and working condition, in the terms of the laws in force, and until new laws determine new or other cases."[18]

According to this understanding, the content of Article 123 of the 1946 Constitution was created by the Constituent Assembly[19] with the purpose of expressing the possibility of the limitation of the normative power. However, the limits had to be established by a later law, which could have expanded or limited the application of this prerogative by the labor court system: "I mean: the law will be free to establish these limits, expanding or restricting them, but while this is not done, the limits appearing in the previous law will remain in force."[20]

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[18] Acórdão do STF no 13.865, dated 13 julho July 1951. Available at: <www.stf.jus.br>. Accessed on: 10 Mar. 2013.

[19] The legislative discussions involving the labor courts and the normative power can be consulted at: Campanini (2014).

[20] Acórdão do STF no 14.963, de 26 julho de 1951. Available at: <www.stf.jus.br>. Accessed on: 10 Mar. 2013.

According to STF *acórdãos*, it was even "dangerous for Brazilian society"[21] to remove from workers the possibility of demanding a just wage through collective bargaining. Moreover, it would mutilate the labor court system of one of its essential functions, opening the "path to the generalization of strikes, with serious damage to the social order and to the relevant interests of the collectivity."[22]

An expansion of studies of the normative power is necessary, principally to understand how its application occurred during its history

The fact that no *acórdãos* were found with the parameters mentioned between the 1953 -1964 period strengthened the hypothesis that the question of the effectiveness of the normative power of labor courts was an understanding consolidated by the STF at that moment. Moreover, it should be mentioned that in none of the six judgments found was the merit of the actual case judged by the Supreme Court, which stated that the question had lapsed and that no appeal was allowable.

In researching TST judgements, it was discovered that unfortunately the Court had not made available the information about the *acórdãos* of the 1941 – 1964 period. However, the president of the court, Judge Geraldo Bezerra de Menezes, in publishing some of its *acórdãos*, leaves it clear that the understanding of the STF was based on the initial decisions of the TST. According to this judge, when he assumed the presidency of the TST in 1946, the court was experiencing an acute phase in the question of collective bargaining, principally because of the rise in the cost of living, which led him to "study and defend the normative power." The argument in defense of this prerogative was that it would be an error to deny the normative competence of the labor courts to judge collective bargaining with fundamental principles of economic questions, related to pay scale tables.

The judge in question was part of the commission responsible for preparing the Bill for the Procedural Labor Code, as will be seen below. In the proposal submitted to the Presidency of the republic in 1963 during the Jango administration, the judgment of collective bargaining was guaranteed in the following hypotheses: when labor relations were unjust, when the contractual remuneration of workers was insufficient, and when there occurred an imbalance between the remuneration of the worker and the profits earned by their employers.

Moreover, the prerogative of judgment had to be unique and exclusive to the labor court, while the normative decision, with the force of law, would cover the

[21] Idem.

[22] Acórdão do STF no 14.167, de 26 julho de 1951. Available at: <www.stf.jus.br>. Accessed on: 10 Mar. 2013.

entire professional and economic category and would enter into force upon the publication of the judgment —, which in fact could be considered a step backwards, since, based on TST judgments, the regional courts tended to validate the base date or when the case was filed (Russomano, 1963). As will be seen below, the bill in question would not be submitted to the Brazilian Congress.

Also in relation to the normative power, Paulo Emilio Ribeiro de Vilhena sought to conceptualize it as something more than a legislative function, as a source of law. According to Vilhena, it was the result of a judicial articulation in a field in dispute with the actual traditional 'canons' of the writing of judgments, whose content considered parallel could not intersect with each other. In other words, the judging function of justice could not intersect with the production of the judicial norm, as they were functions that were impossible to accumulate.

In short, the 'concession' of the normative power to the labor courts had the function of equilibrating social tensions between workers and employers. According to this form of thinking, the imbalance between labor and capital was recognized, and the solution was a balanced institution which could even create legal norms by judging concrete cases. The purpose was to avoid direct social conflicts (strikes and stoppages), since by submitting cases to court and judicial decisions, social stability could be reached. How did this power function in the 1958 – 1964 period, when workers showed the strength of their mobilization, expanding their political polarization? How were relations between workers, employers, their unions and federations, and the labor courts organized?

Although the labor courts had the real possibility of preparing legal norms to judge conflicts between employers and employees — a fundamental question in that context —, the historiography has advanced very little in the explanation of the developments and functioning of this power. I think that it is important to mention here that the normative power of the labor courts suffered a large number of contestations after the 1946 Constitution as it was considered authoritarian and incompatible with the democratic regime implemented.

The sources analyzed until now allow a visualization of the organization of the judicial apparatus involving the decisions of the labor courts, especially in relation to the normative power. To understand how this structure functioned in the 1958 -1964 period, it is necessary to analyze how collective processes were filed and judged. Based on this, it will be possible to answer some of these questions: how did the corporate system of the control of union organizations created after 1930 actually function with the practices of direct negotiation between employers and employees? Were judicial decisions the focus of concern? Furthermore, how were the judicial cases in which the labor courts had the prerogative of using the normative power judged and processed?

The establishment of the collective process

Collective controversies in the judicial sphere involving unionized workers and employers were dealt with by collective bargaining in the 1946 – 2003 period.

Cases were filed by the parties involved (worker unions, employer federations, or by companies), by the Labor Prosecution Service, and also by the presidency of the Regional Court. It was as part of the collective bargaining process that the judiciary used the normative power to establish norms which had to be observed in individual contracts. Establishing rights and obligations, it ended up creating new working and wage conditions (Sitrângulo, 1978).

The procedural process of questions linked to collective labor rights was basically regulated by the following judicial rites: conventions, agreements, agreements under the auspices of collective bargaining, collective bargaining, and the revision of collective bargaining. Of the cases submitted to the labor court system in the seven years which preceded the 1964 military coup, considered one of the most active periods in terms of worker struggles, an absolute majority demanded pay increases, though in some cases other rights were claimed, such as the '13th salary.'

After consulting the TST statistical system in relation to the number of collective bargaining agreements judged between 1946 and 1970, I found a significant increase between 1960 and 1965, according to the court's own classification. The information was grouped by the TST in five year periods: 1946-1950; 1951-1955; 1956-1960; 1961-1965; and 1966-1970. There does not appear to be any guarantee about the preciseness of the information, since the data refers to the filing of the collective bargaining cases in the various regional courts during the above periods. However, when the filing data was checked in TRT4, where the entire cases were consulted, the number was very different from that mentioned by the TST.

Nevertheless, the available data showed an increase in the resort to the labor court system in the 1964 period and a reduction in the later period. One hypothesis is that there could have been an increase in the number of agreements between the parties, due to the strength of employers in the post-1964 period, which needs to be better assessed.

As well as the considerable increase in collective bargaining during the historical series, the significant increase between 1960 and 1965 deserves to be registered. In relation to cases filed by workers and employers in Porto Alegre between 1958 and 1964, there was a 26% increase in the total number of cases judged by the regional labor court, TRT4. This expansion can be justified by the political situation experienced during the period, in which there was an obvious protagonism of workers in the attempt to change Brazilian society[23] and due to the instability caused by the rise in inflation and the subsequent increase in the cost of living. In his analysis of the cases sent to the 2nd TRT, Fernando Teixeira da Silva, reached similar conclusions, stating that since the post-war period the labor court system saw itself as bearing an enormous responsibility, principally in relation to the high rates of inflation (Silva, 2013). However,

[23] Amongst these changes, it is possible to highlight the struggle for basic reforms: such as agrarian, urban, educational, electoral, administrative, taxation, sharing of company profits, and labor conquests within and outside the courts.

it also has to be considered that the normative power was consolidated with the unification of STF jurisprudence, which, from this perspective, guaranteed the normative competence of the labor courts.

Collective bargaining in Porto Alegre

Turning the analysis to the collective bargaining cases submitted to TRT4 involving trade unions from Porto Alegre in the 1958 - 1964 period, 419 complaints were found. Of these processes, 59.66% (225) were collective bargaining agreements or revisions of these agreements. Collective bargaining litigation in its strict sense was one of the last judicial rites to be undertaken by the TRT or the Labor Prosecution Service (MPT). Once the stages of direct negotiation between employers and employees and the attempts at reconciliation in the DRT had been exhausted, the trade unions resorted to the judicial system to resolve the conflict. This type of case was slower and ore bureaucratic, since as well as the *embargos*,[24] the parties could appeal to the TRT, the TST and, if any constitutional issue was involved, to the STF. In each of the stages, the parties could reach agreements which were also subject to approval.

The principal demand in the Porto Alegre cases was for wage increases, with questions related to improvements in working conditions appearing only in a reduced number of legal cases, which could be due to two situations: first, the inflationary reality of the period, which corroded the purchasing power of workers; second, the CLT, which already covered a wide range of rights related to working conditions and relations, as explained by Michael Hall (2002). In other words, the legislation already theoretically guaranteed a large number of rights, even though these were often not fully complied with by employers, which could inhibit the expansion of direct negotiations involving other rights.[25]

What is most surprising in relation to the filing of collective bargaining cases is that, in a corporatist system of labor relations, it was expected that the absolute majority of questions be submitted to the labor court system, and not just a little over half of the cases, as in the example of Porto Alegre. It should also be noted that Silva (2013), analyzing the collective cases of São Paulo, reached similar findings that 55% of the cases were strictly speaking related to collective bargaining, strengthening the hypothesis that workers made use of the corporatist system, but not in a single way or in order to guarantee rights.

In the collective bargaining cases, the actions of the labor courts could demonstrate the importance of the existence of the normative power, since they would have to decide on conflicts between workers and employers. What was at stake

[24] According to the online dictionary *Central jurídica*, *embargos* are a type of ordinary appeal to contest a definitive appeal. The most common are clarifying appeals (*embargos declaratórios*). Available at: <http://www.centraljuridica.com>. Acesso em: 23 jan. 2013.

[25] The fact that the CLT is considered a type of collective labor contract which guarantees basic fundamental rights to workers leads to the need to compare the Brazilian labor relations system with the institutional reality of other countries, such as Mexico, which, after the Mexican Revolution, was one of the models of social legislation, and even the United States, since questions are raised about the right to the collective negotiation of labor. This extrapolates the limits of this article, but it can be the object of future studies.

in labor court judgements, in addition to wage increases and improvements in working conditions, was the demonstration of the condition of these courts to determine the legal norms. As well as demonstrating the importance of the existence of the normative power — which in situations of the absence or imprecision of judicial norms allowed the expansion of rights —, the actual competence of the labor courts to determine the legal norms were in the arena of disputes.

The letter of the law in relation to the functioning of collective bargaining could have made it appear that the judicial rite did not generate controversies within the labor court system. In reality the tribunals diverged a lot in relation to the formulas adopted for judgments, and even the TST did not have a single position in relation, for example, to the indices of increases in the cost of living.[26]

An important example of this divergence is the collective bargaining agreements of the weavers from the Federal District and the textile workers of Pernambuco, filed and judged in 1952. These cases were very similar in terms of content, but had very different results, which, according to the editorial of *Revista Trabalho e Seguro Social,*[27] can be attributed to the 'understanding' of the reporting judge.

How in practice did the corporatist system for controlling trade unions created after 1930 function with direct negotiation practices between employers and employees?

In the case of the textile workers of Rio de Janeiro, the employers appealed against a pay increase of 60% granted by TRT1 (Rio de Janeiro), based on the Fundação Getulio Vargas (FGV) index, with the argument that labor courts should use the official index of the Statistical Service of Social Security and Labor (*Estatística da Previdência e Trabalho* - SEPT), from the Ministry of Labor. The reporting judge's understanding differed from what the employers argued, affirming the independence of the labor courts in relation to the Executive. Nevertheless, he reduced the increase to 42%, based on the FGV index. In the judgement of the appeal of the employer federation against the textile workers' union of Pernambuco, Judge Geraldo Bezerra de Menezes made a contrary decision, linking the judgment of the labor court to the official index of the Ministry of Labor, reducing the pay increase for the category in question to 30%. However, in addition to the question of indices, what determined the reduction was non-official information from the employer lawyer that the

[26] The controversies about the increase in the cost of living reside principally in the complexity of measuring the actual patterns of consumption of workers and differences existing within the working class. In relation to the living standards of workers in Porto Alegre, see: Silva (2014).
[27] *Revista Trabalho e Seguro Social*, ano XI, v. 33, n. 121-122, Editorial, jan./fev. 1953.

professional category had accepted an agreement on the same basis.[28] “In a collective bargaining agreement many facts can occur and many surprises emerge, but in no collective bargaining did there occur as many surprises as in the cases of the Pernambuco textile workers, advised by such an irresponsible provincial lawyer.”[29]

Divergences in relation to indices of cost of living increases and wage rises to be applied to collective bargaining created much discussion during the years after 1953. Jurisprudence about the question appeared to have been unified only after 1965, when the military government, as part of the plan for combatting inflation, established tables for wage increases for the private sector, which in practice may have limited the action of the labor courts (Saboia, 1990, pp. 581-600).

The question of wage increases through readjustments granted by the labor court system directly affected the anti-inflationary policy of the government, causing friction between the institutions (Silva, 2013). This question was analyzed recently by Corrêa (2013), who confirmed the publishing of successive laws decreed after 1965, which removed from the courts the prerogative of liberty of making judgments about wage increases for workers.

In practice, the wage increase tables of the military regime drastically limited the normative power of the labor court system, since they stopped it from analyzing the social reality of the professional category. Not by chance, the actual number of collective bargaining agreements was reduced.

In the case of collective bargaining agreements filed by Porto Alegre trade unions between 1958 and 1964, the result was not very different from what Silva (2013a) found, when he looked at those cases which resulted in the approval of an agreement, in other words those which were presented to the labor courts to judge a disagreement, but in which the parties reached an agreement. These represented 76% of the total. This result, in principle, leads to the initial consideration that the strongest professional categories managed to reach an ‘extra-judicial’ agreement with greater conquests for workers, but there is evidence that this statement is not totally true.

It is therefore necessary to compare the results with the decision of other types of cases sent to TRT4. It was, thus, sought to answer the following questions: What was the solution of the cases in which the labor courts directly intervened in the final result? Did the workers end up defeated by the structure created to ‘manipulate them,’ as a large part of the analyses until then stated?

Of the cases submitted to the labor court, judgments were issued for 24% of the collective bargaining agreements and revision of agreements; 85.42% of these accepted some of the workers’ demands, while in only 10.42% was there a total dismissal of the case. This data strengthens the hypothesis that the decisions tended to benefit the working class, although not everything demanded

[28] The decision was not unanimous. Voting against it were the judges: Delfim Moreira Júnior, Astolfo Serra, Edgar de Oliveira Lima, and the president of the TST Caldeira Neto.
[29] *Revista Trabalho e Seguro Social*, ano XI, v. 33, n. 121-122, p. 15, jan./fev. 1953.

was granted. At the same time, the existence of a very large number of agreements is somewhat odd.

The data strengthens the hypothesis of the existence of a tendency favorable to workers in which the court issued a judgment accepting at least in part their demands, especially when compared to those decisions resulting from agreements before the case started or while it was underway.

Analyzing these collective processes, it was possible to perceive that the majority of ratifications were related to agreements made before the parties involved went to court, without the direct intervention of the labor court, which at the beginning of the research created much doubt, since this situation was not foreseen from a legal point of view.[30] Nevertheless, these agreements represented 46.30% of the total cases in the universe researched, which could have contributed a lot to the strengthening of this practice that was consolidated in the jurisprudence.

Reading the cases, it was evident that there was a rivalry between the Bureaus and the Regional Labor Courts in relation to the ratification of extra-judicial agreements. For example, in the cases studied by Fernando Teixeira da Silva (2013), the *procurador do trabalho* (labor prosecutor) often demonstrated anger by the fact that the TRT had ratified the extrajudicial agreements, which in practice does not appeared to have made the judges any more sensitive, as they ignored the appeals of the labor prosecutor and said that they had the 'competence' to do what they were doing.

The argument of the labor prosecutor from São Paulo was that the agreements established in the DRT had to follow the procedures stipulated in law, and had to be 'deposited' in the institution and published in *Diário Oficial*:

> [...] preliminary, it appears to us that the ratification competence of this Court does not exist, expect in the case when the agreement is pending, and thus does not extend to cases of extra-judicial agreements, since these constitute typical collective conventions explicitly subordinated to the ratification of the Ministry of Labor. This regional prosecutor's office has repeatedly given its opinion.[31]

> [...] nothing to ratify. It is an agreement made in the administrative sphere and explicitly subject to the ratification of the Minister of Labor (page 8 clause 10). Terminated. The parties request that it be ratified by the MT in accordance with the provisions of articles 1 and 2 of Decree 41.444, dated 29 April 1957.[32]

[30] According to Law 1.237, dated 1939, the ratification of collective agreements was the competence of the labor court only after the establishment of the collective bargaining in cases in which the parties arrived at an agreement before the establishment of the processes. The DRT had to ratify and file the judicial records. The research which gave rise to this article showed that in practice trade unions even opted to send to the TRTs cases of extrajudicial agreements.

[31] Processos no 245/1963 e no 248/1963, Tribunal Regional do Trabalho da 2a Região. Available at: <http://www.unicamp.br/cecult>. I would like to thank my supervisor, Fernando Teixeira da Silva, for ceding me the source.

[32] Processo no 1/1963, Tribunal Regional do Trabalho da 2a Região. Available at: <http://www.unicamp.br/cecult>. I would like to thank my supervisor, Fernando Teixeira da Silva, for ceding me the source.

In other words, the law was in favor of the DRT, but the practice of submitting the extrajudicial agreements to the labor courts for ratification appears to have predominated. This is an interesting case of a dispute of jurisdictions, attributions, and power. In an interview, the lawyer Vitor Nuñes,[33] who acted as a lawyer for many labor unions in the period in question, categorically stated that the ratification of the extrajudicial agreement by the labor court was seen as a greater guarantee by workers for the maintenance of the rights acquired in this agreement.

The fact that the parties went to the labor court could signify proof that they attributed legitimacy to the normative power in cases in which workers resorted to this to see their rights guaranteed or expanded, and even in cases in which employers resorted to it to resolve questions related to strikes or to deal with other problems. However, before the judgment of collective bargaining, the judges of the Regional Court sought to make an agreement between the parties. This had to be ratified by the court and was differentiated from 'simple' ratification by the fact that the case had been filed as a complaint, and not just as a request for ratification.[34]

The submission of a large part of the cases to the labor courts, in the form of requests for the ratification of extra-judicial agreements, is intriguing since the workers had preferred to agree to less beneficial agreements than take their cases to the labor court. The only explanation that can be considered is that, even though ratification was not necessary, they preferred to judicialize the question, conferring a certain degree of reliability on the justice system. However, other variables need to be considered, such as: who submitted the ratification request? Employers or employees? How long did collective bargaining take to be processed? Delays in judgements of cases and the possibilities of appeals could have minimized the gains for a more favorable decision. Other elements can also be listed, which are difficult to measure, such as direct conflict with employers and the personal and financial costs of judicialization.

Looking at the party which submitted the request for the ratification of the extrajudicial agreement to the labor court, the initial hypothesis was that an absolute majority must have been submitted by employers, since the judgment would tend to benefit them. However, this hypothesis was not supported by the reality found in the analysis of the cases. What was found was actually more complex, since 61.85% of the total ratification requests were submitted by workers.

In the analysis of the processing of collective bargaining and ratification requests, it was found that the median time for judgment was 58 days, while

[33] The interviewee graduated in law from Universidade Federal do Rio Grande do Sul (UFRGS) in the middle of the 1950s and worked for many years as a trade union lawyer in Porto Alegre and in Worker Federations in Brasília. Unfortunately, he died at the beginning of January 2015. Interview with the lawyer Vitor Nuñes in 2012, available in the Labor Court Memorial in Rio Grande do Sul.

[34] Also in relation to the types of collective cases, there exists collective bargaining revision, processes of updating decisions about collective bargaining which resulted in reconciliation of an explicit decision of the labor court. This type of process was principally taken by worker unions and aimed at altering previously judged clauses, with the time allowed for filing these being at least one year after the first judgment, according to the legislation at the time.

ratification requests took 23 days for a decision. In other words, collective bargaining took on average 152.17% longer to be analyzed when compared to simple agreement ratification requests. The variable involving the time collective bargaining took to be processed can be considered a key to consenting to an agreement, principally for the workers, since the delay in processing cases was probable to benefit employers, who did not have to pay for the cost of what had been requested until the final decision (Silva, 2013).

The variable involving the time collective bargaining took to be judged can be considered a key in the decision to consent to an agreement, principally for workers

Since the median difference in the processing time of cases was very high, it was necessary to investigate the minimum and maximum judgment time, as the effect of both could have a much greater impact on worker choices. The time this took did not need to be calculated, since it was stamped on legal decisions. Once again the result strengthened the importance of the judgment time. The collective bargaining that was judged most rapidly took eight days and the slowest 1326 days. In both cases, the judicial decision rejected the complaint. In other words, the workers were defeated and the courts rejected their petition, which in part justified the fact that many of them preferred the agility of the agreement.

Another exercise carried out was the combining of the professional categories with the lowest incidence of strikes: milk distributors, workers in ammunition factories, telephone workers, woodworkers, public state employees (with the exception of teachers), workers in an accordion factory, social security workers, workers in the timber industry, security guards, and workers in the paper and cellulose industries. These workers were responsible for the filing of only 25 collective cases in the 1958 – 1964 period, of which 22 were requests for the ratification of collective agreements.

In this way, in the categories considered to have the lowest mobilization power, it was discovered that 77.27% of the extrajudicial agreements were submitted by the employer federation or by the employers directly, resulting in an average increase of 27% in worker wages. Comparing this index with the cases in which the labor courts effectively judged the merit of the case, the pay increase awarded at the end of the case was 110% higher than the extrajudicial agreement submitted by employers for ratification.

The fact that the more active categories preferred to access the labor court through collective bargaining cases can strengthen the hypothesis that the court tended to decide in favor of the workers, but for this to occur political pressure was needed both inside and outside the courts. This thesis was shown to be partly true, as seen above. More than 85% of the collective bargaining cases

effectively judged were in part accepted by the Judiciary, with a tendency to raise wages in a manner more beneficial to workers than for those which ended with an agreement.

If the statement that workers needed to show political force for labor court decisions to be favorable to them is correct, in theory collective bargaining involving strikes should have had better results. A spectator little familiarized with judicial cases would isolate the cases involving strikes and work out the average/median if what was won, ignoring the various interpretations about the question of strikes in the institutional apparatus from the end of the 1950s until the coup.

The average time, for example, for the judgment of a case involving a strike was 87 days, much higher than the general average, which is not odd since cases involving strikes most often expressed greater 'friction' in the system: the conquest of rights was sought by force, as reported in 1950s law books. The median of 37% pay increases also did not contribute to understanding the importance of strike movements in the labor courts, since it approximates them to cases in which the parties reached agreements during the proceedings, in which the workers won pay increases of 40%. Obviously, in these cases there could have been a strike and the agreement was forced by the worker movement.

To understand the importance of the strike as a political expression of the working class in the labor court and the result achieved by workers, in addition to what they won, it is necessary to analyze the political force of the category which was on strike and the strength of the strike itself. Moreover, from the point of view of justice, there were strikes and *strikes*, and they could be legal, illegal, political, economic, or in solidarity, just to cite some examples.

It should also be emphasized that the normative power of the labor courts, even with clear limitations, suffered even greater attempts at restriction during its history until its almost complete extinction with the 2004 Constitutional Amendment no. 45. Moreover, the content and the form of the demands of the parties involved, despite often appearing the same when observed in judicial manuals, had enormous differences when compared with the practice, as in the example of the cases involving agreements.

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Bibliographic References

BRASIL. Projeto de Lei N. 1471, de 1949 (Câmara Federal). Dispõe sobre o Exercício do Direito de Greve. – Available at: www.camara.gov.br. Accessed in Feb. 2013.

CAMPANINI, Andrei C. *A legislação (en)contra as greves*: trabalhadores, ação direta e as cortes trabalhistas (1946-1963). Projeto (Dissertação de Mestrado) — IFCH, Unicamp, Campinas, 2014.

CORRÊA, Larissa R. A "rebelião dos índices": política salarial e Justiça do Trabalho na ditadura civil-militar (1964-1968). In: GOMES, Ângela de Castro; SILVA, Fernando Teixeira da. *A Justiça do Trabalho e sua história*: os direitos sociais e humanos dos trabalhadores no Brasil. Campinas: Unicamp, 2013.

______. *As relações sindicais Brasil-Estados Unidos na ditadura civil-militar (1964-1978)*. Tese (Doutorado em História) — IFCH, Unicamp, Campinas, 2013.

FERREIRA, Waldemar. *Princípios de legislação social e direito judiciário trabalho*. São Paulo: Limitada, 1938. v. 1.

FORNAZIERI, Ligia Lopes. *Um projeto de Justiça do Trabalho no Brasil*: o debate entre Oliveira Vianna e Waldemar Ferreira (1934-1938). Campinas: Digitado, 2013.

FRENCH, John. *Afogados em leis*: a CLT e a cultura política dos trabalhadores brasileiros. São Paulo: Fundação Perseu Abramo, 2001.

GOMES, Ângela de Castro. *A invenção do trabalhismo*. 3. ed. Rio de Janeiro: FGV, 2005.

HALL, Michael. Corporativismo e fascismo: as origens das leis trabalhistas brasileiras. In: ARAÚJO, Angela. *Do corporativismo ao neoliberalismo*: Estado e trabalhadores no Brasil e na Inglaterra. Campinas: Boitempo, 2002.

LOPES, José Sergio Leite. *A tecelagem dos conflitos de classe na "cidade das chaminés"*. São Paulo: Marco Zero; Brasília: UnB/MCT/CNPq, 1988.

MARTINS, Carla Guedes. *Revista do Trabalho*: um estudo do direito do trabalho. Dissertação (Mestrado em História), Universidade Federal Fluminense, Niterói, 2000.

MARTINS FILHO, Ives Gandra da Silva. Breve história do trabalho. In: ______; FERRARI, Irany; NASCIMENTO, Amauri Mascaro. *História do trabalho, do direito do trabalho e da Justiça do Trabalho*. 2. ed. São Paulo: LTr, 2005.

MATTOS, Marcelo Badaró. *Novos e velhos sindicalismos no Rio de Janeiro (1955-1988)*. Rio de Janeiro: Vício da Leitura. 1998.

MUNAKATA, Kazumi. *A legislação trabalhista no Brasil*. São Paulo, Brasiliense, 1984.

PESSANHA, Elina. *Labour law and justice in Brazil*: anti-liberal tradition and neoliberal recent changes. 2002. Mimeo.

PRUNES, José Luiz Ferreira. *A representação classista na Justiça do Trabalho.* 2. ed. Curitiba: Juruá, 1995.

ROWLAND, Robert. Classe operária e Estado de compromisso (origens estruturais da legislação trabalhista e sindical). *Estudos Cebrap*, n. 48, abr./jun. 1974.

RUSSOMANO, Mozart Victor. *Anteprojeto de código de processo do trabalho.* Rio de Janeiro: Imprensa Nacional, 1963.

SABOIA, João. Salário e produtividade na indústria brasileira: os efeitos da política salarial no longo prazo. *Revista Pesquisa e Planejamento Econômico*, Rio de Janeiro, v. 20, n. 3, p. 581-600, dez. 1990.

SADER, Eder. *Quando novos personagens entraram em cena*: experiências e lutas dos trabalhadores da Grande São Paulo (1970-1980). Rio de Janeiro: Paz e Terra, 1988.

SILVA, Fernando Teixeira da. *A carga e a culpa. Os operários das docas de Santos*: direitos e cultura de solidariedade, 1937-1968. São Paulo: Hucitec, 1995.

SILVA, Fernando Teixeira da.; NEGRO, Antonio Luigi. Trabalhadores, sindicatos e política (1945-1964). In: O Brasil republicano: o tempo da experiência democrática – da democracia de 1945 ao golpe civil militar de 1964. Org. Jorge Ferreira; Lucilia de Almeida Neves Delgado. 3ªed. Rio de Janeiro: civilização brasileira, 2010.

SILVA, Fernando Teixeira da. Entre o acordo e o acórdão: a Justiça do Trabalho paulista na antevéspera do Golpe de 1964. In: GOMES, Angela de Castro; SILVA, Fernando Teixeira da (Org.). *A Justiça do Trabalho e sua história*. Campinas: Unicamp, 2013a.

_______. *Poder, normas e justiça*: os trabalhadores e o Tribunal Regional do Trabalho de São Paulo (1963-1964). Tese (Livre-docência) — IFCH, Unicamp, Campinas, 2013b.

SILVA, Nauber Gavski da. *Salário mínimo e vida operária*: alimentação, classe e gênero em Porto Alegre (c. 1940-c. 1968). Tese (Doutorado em História), UFRGS, Porto Alegre, 2014.
SITRÂNGULO, Cid José. *Conteúdo dos dissídios coletivos de trabalho*: 1947 a 1976. São Paulo: LTr, 1978.
SOUZA, Edinaldo A. O. *Lei e costume*: experiências de trabalhadores na Justiça do Trabalho. Salvador: EDUFBA, 2012.
SOUZA, Samuel. *"Coagidos ou subornados"*: trabalhadores, sindicatos, Estado e leis do trabalho nos anos 1930. Tese (Doutorado) — IFCH, Unicamp, Campinas, 2007.
VARUSSA, Rinaldo J. *Trabalho e legislação*: experiências de trabalhadores na Justiça do Trabalho (Jundiaí-SP, décadas de 40 a 60). Tese (Doutorado), PUC-SP, São Paulo, 2002.
VIANNA, Oliveira. *Problemas de direito corporativo*. Rio de Janeiro: Livraria José Olympio, 1938.
VIEIRA, Pedro Benjamin; TOURON, Ramon Castro (Org.). *Importância da representação paritária na Justiça do Trabalho*. São Paulo: LTr, 1993.
VIEIRA, Vera Lúcia. *Cooptação e resistência*: trabalhadores de São Paulo de 1945 a 1950. São Paulo: PUC, 1989.
VILHENA, Paulo Emílio Ribeiro de. *Da sentença normativa*: à luz da Emenda Constitucional 45/04. São Paulo: LTr, 2006.