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Summary. Since , the lives of Brazilian working people and their employers have been governed by the Consolidation of Labor Laws (CLT). Seen as the end of an exclusively repressive approach, the CLT was long hailed as one of the world's most advanced bodies of social legislation.

Mathews Avenue, Urbana, IL email: Abstract In the s and s, health planning formed a major theme of American health policy. Planners aimed to improve health services and make them broadly available while using resources efficiently. This article provides a history, both intellectual and political, of the origins of planning, its rise, andâ€"in the face of mounting problemsâ€"its decline. The story also illustrates broader changes in the culture of policymaking in American health care. From the Progressive Era through the s, reform-minded experts in health worked to advance the public interest. Thereafter, they increasingly left behind public-interest ideals and their underlying extramarket values in favor of organizing and improving health care markets. Whatever the deficiencies of traditional policymaking may be, this study suggests the need to resurrect extramarket values in health policy. Health planning, health policy, policymaking, history of medicine From the late s to the early s, health planning formed a major theme of American health policy. Planning programs provided grants or loans to develop private and governmental planning bodies and health facilities, supported research to establish scientific foundations for planning, and eventually invoked regulation through certificate or certification of need CON to align the development of hospitals with planning goals. Planning heavily occupied analysts and policymakers at all levels of government, in the voluntary-hospital sector, the medical profession, the nascent profession of health planning, and the emergent field of health services research. It elicited support from advocates of national health insurance, who saw it as a precondition for universal entitlement, and it engaged activists in struggles over whose needs should be served by health care providers this last point is not treated here; see Brown ; Morone , chap. By early in the Reagan administration, however, the planning movement, stymied by intractable cost escalation, stung by criticism of its political dimensions, and obstructed by diverse other problems, ended in failure. This article provides a history, largely intellectual but also political, of the origins of planning, its rise, and its decline; and it uses this episode to illustrate broader changes in the culture of policymaking in American health care. Planning began as a private, voluntary effort to induce the self-governing elites of the hospital world to engage in self-limitation in the public interest, as reformers conceived it; but the characteristic features of planning gradually changed over the course of the planning era, and, toward its end, the movement lost legitimacy and came to an inglorious end. Planners initially engaged local social and economic elites, philanthropists originally individual or familial and later corporate , and local or locally oriented nonprofit institutions chiefly hospitals and Blue Cross , but later regional and national economic forces loosened community ties and set planning adrift. Originally, planners sought to make incremental improvements in the distribution of health services especially acute-care hospitals and to moderate cost increases that had only just begun to elicit serious concern; but later they struggled in vain to curb overbedding and duplication of facilities and to slow dramatic and intensifying cost escalation. They originally hoped they would be able to predicate planning on science and not politics , but eventually the failure of rational planning methods and the dominance of politics in planning decisions exposed planning-cum-regulation to charges of arbitrariness and lack of accountability. At the same time, market advocates discredited disinterestedness, regulation in the public interest, and indeed the very idea of the public interest as an expression of collective values. Not surprisingly, planning has since been little lamented. It has also been little remembered and, as a historical phenomenon, little understood. First, it reveals fundamental features of a long-standing but now heavily eroded policy world: Second, historical analysis of planning shows the disintegration of that world in the face of new forces: In exploring planning, this article reveals many features that characterized public policy for much of the last century; and it analyzes their transformation by some of these novel forcesâ€"reserving others for study elsewhereâ€"as that century

gave way to a new one. There is little reason to suppose that the older approach to policymaking or planning in particular could or should be resurrected, but the story of planning does suggest that something valuable may well have been lost from the formation of public policy in general and health policy in particular: This and related inquiries aim to encourage discussion among those who formulate and make health policy, about whether and, if so, how to give those values weight in the American health care system cf. The history of planning falls into stages. The intellectual foundations of planning began in the s and s and persisted thereafter through rearticulation and refinement of its themes. Although the federal-state Hill-Burton program â€”74 , which subsidized the construction of especially rural hospitals, rested on planning ideas, it honored them only in the breach. The planning movement began in the late s in response to pressures on urban hospitals resulting from suburbanization and to public concern about costs. It took form in a series of programs that, despite early promise, foundered in the face of multiple problems. Payers, public and private, then abandoned planning and took up other solutions to the problems of health care. The next section discusses the antecedents of the planning movement itself, and subsequent sections examine planning in its various stages, culminating with a detailed analysis of the planning era. The article concludes with reflections about the changing nature of policy formulation and decision making in American health care. Through the late nineteenth century, these hospitals had been charitable institutions serving the chronically sick poor. However, in the early twentieth century their transformation into providers of scientific, acute care for paying patients made them objects of broad community concern Brown ; CFHC , 14; Schlesinger , â€” Some chronic patients continued to occupy beds in acute-care institutions, but most chronic care shifted to municipal and county hospitals, state mental institutions, and, eventually, a proprietary nursing-home industry Dowling ; Grob ; Hawes and Phillips ; Vladeck Responsibility for meeting the need for health care, analysts claimed, lay in the local communities. The hospital was to be the central community institution for providing acute care, and it gradually absorbed and replaced many other kinds of acute-care facilities, notably specialty hospitals e. Typically under voluntary, private ownership, the community hospital served as an eleemosynary institution, and its services resembled public goods. Both planning institutions and health facilities and services, analysts believed, were best distributed through regional hierarchies descending from the urban center and its medical schools and teaching hospitals, through smaller towns with their community hospitals, to the rural periphery with its clinics. Some practical antecedents for planning lay in scattered early projects that rested on public or philanthropic funds. They aimed to improve rural health care through professional exchanges and referrals of patients among institutions, particularly via connections between cities and rural areas Fox b , â€”68; Shonick , â€” As early as , the Bingham Associates Fund at the Tufts New England Medical Center organized a program to support health services in rural New England; and the Rochester Regional Hospital Council, organized with the support of the Commonwealth Fund in , arranged for teaching hospitals to cooperate with small community hospitals. For advocates of planning, these programs exemplified coordinated planning and provision of urban-based health services in rural areas e. At Hunterdon, physicians in primary care specialties, who held full-time academic appointments and kept professionally up-to-date through frequent visits to New York, provided medical education for students, interns, and residents, as well as the supervision and training of primary care practitioners in the local community. This arrangement found echoes in some academic medical centers, which emphasized primary care and community medicine on their clinical campuses and avoided subordinating local practitioners to their clinical collaborators at the central medical center Fox , and private communication ; Pellegrino , These three programs differed in their conceptions of regionalism and in their influence, but by exemplifying the better distribution of medical resources and efficient deployment of professionals, they provided models that advocates of planning could invoke and imitate. However, during and just after the war, the coalition laid the groundwork for the Hill-Burton program passed in to support growth of the hospital system Fox b , chap. The coalition also found its voice in studies that called for a planned expansion of hospital services to bring well-trained professionals and the technology they wielded within the reach of all communities e. Similarly, physicians, finding hospital care increasingly informed by scientific

rather than traditional social criteria, took a leading role in the development of hospitals. Physicians served their own needs by encouraging the public to supply the capital requisite for scientific practice, but they also regarded themselves as bringing to the public modern hospital services and the benefits of scientific advance Rosenberg ; Stevens , esp. Advocates of planning thus saw themselves as pursuing both the interests of their own organizations and professionsâ€"the medical profession, the voluntary hospitals and from the s Blue Crossâ€"and those of a broad public. Their role can be illuminated with reference to scholarly studies of the relation of experts and professionals to public policy. Planners and analysts drawn from these backgrounds instantiated the social-trustee professionalism that marked reform-minded experts, particularly in governmental and nonprofit sectors, from the Progressive Era into the s and, to a declining extent, thereafter Brint This cluster of conceptions about professional expertise fit easily into a broader American pattern Hall ; Morone that, beginning in the Progressive Era, granted to voluntary, private, and often nonprofit groups much responsibility for articulating, interpreting, and achieving public goals in the realms of policy in which they were implicated Fox b ; Starr a ; Stevens , Both models carried implications for research and advocacy on behalf of citizens lacking access to high-quality care. Planners perceived the dominance of nonprofit organization of both hospitalsâ€"which lay at the focus of planningâ€"and Blue Cross as a legacy of older patterns of charity and stewardship and as a reflection of the intermediate position occupied by these institutions between business and government; their public-service orientation; and their ability to regulate their affairs, without governmental intervention, in the public interest Eilers , 80â€"85; Seay and Vladeck ; Stevens , 40â€"46, â€"62, â€" Planning agencies and their staffs similarly partook of these features of disinterested, voluntary public service. Planning professionals and their institutions thus exemplified enduring American patterns of disinterested, meliorative reform in the context of enlightened private interest. Hill-Burton Reformers of the kind just described populated the political coalition that in achieved passage of the Hospital Survey and Construction Act PL , which established Hill-Burton. From to , the construction of hospitals, including private, nonprofit ones, was one of its targets, and its precedent for federal subsidy of local, nonprofit hospitals informed Hill-Burton. Burton of Ohio, built a state-federal partnership to survey the need for acute-care hospitals and subsidize their construction, mostly as voluntary, nonprofit institutions. The act required each state to designate a single agencyâ€"most chose the state health departmentâ€"to survey hospital resources in the state, create a state plan to guide the distribution of resources, evaluate applications from local sponsors for construction or expansion, and supervise construction. After federal approval of state Hill-Burton plans, the states could approve funding for local projects deemed consistent with the plans. The formula for distributing the funds gave priority to poor states and rural areas. Congress frequently amended and extended the program until , when it became moribund upon its incorporation into the NHPRDA Shonick , chap. The Hill-Burton Act paid lip service to a planned, regionalized system but provided no means to achieve it; the sponsoring coalition had downplayed hierarchy to avoid opposition May ; Rome a. Instead, the backers hoped that by eliciting regional coalitions to build hospitals, Hill-Burton would create a hierarchy through mutual engagement of the interests. The arena of engagement would be the one that advocates of regionalization traditionally envisioned: Hill-Burton resulted in planless proliferation in small towns in less-populated areas of small, freestanding community hospitals CCI â€"59 , vol. Urban Developments Hospitals also proliferated after the war in urban areas, where Hill-Burton was less significant Elling ; Morris a , b ; Rorem , and experts grew concerned. Diverse communities, distinguished by culture, religion, ethnicity, and class, met their needs by separate networks of patrons, institutions, and caregivers Brown a , 29; Cardwell and Klicka b ; Hall ; Starr a , â€" However, distinctions among such networks waned under the influence of professionalism of both physicians and hospital administrators ; the replacement, among benefactors of hospitals, of wealthy individuals and families by corporations and corporate foundations aiming to rationalize the use of capital across a metropolitan area; and the rise in the suburbs of a culturally relatively uniform middle class K. Fox , esp. Professionalizing experts, as well as corporate donors facing growing demands for capital, saw culturally distinct institutions as duplicating scientifically equivalent resources, lowering

utilization within each facility, reducing the quality of care, and generating unwarranted operating costs Brown a , 29; CHC , â€”87, â€”77; Rorem , â€”9. They pressed for voluntary local planning agencies to guide the development of individual institutions in light not only of their own interests but also of the functions, patient base, and goals of neighboring ones CFHC , â€”4; CCMC , 53â€”55, 93â€”94, â€”37; Falk, Rorem, and Ring , â€”34, â€” Two of the factors just mentioned the growing interest in chronic care and changes in philanthropy that piqued interest in urban health resources are examined in this section, and a third postwar growth of suburbs is discussed in the next section. Chronic disease emerged as a theme of planning in the rural context, especially after World War II, but it became an urban issue in the s Fox ; Grob , chap. Originally, planners expected regionalization to bring urban-based chronic-care services to outlying populations e. Chronic care in urban settings, however, began to pose planning issues. However, major medical insurance, which emerged after the war, paid for some chronic-care services Melhado , â€” Similarly, governmental payers of operating expenses were interested in providing community health care resources efficiently. These developments led planners to analyze the relation between capital expenditures and operating costs, further encouraged them to shift their attention from the hierarchical connections between urban center and rural periphery toward methods of coordinating care in the metropolitan setting, and led them to establish new planning institutions oriented toward metropolitan health planning. Planners recognized, first, that the long-term operating costs of new plant and equipment would vastly exceed the original capital investments and would have to be paid by corporate-sponsored insurance and, second, that a physical plant ill suited to its use because of conversion from a prior use, a poor original design, or superannuation resulting from technological advance or population growth constituted a drain on operating funds that could be avoided by proper initial design or remediated by the eventual modernization if not outright replacement of physical plant CFHC , 72â€”73; Klarman , ; Somers , These problems loomed chiefly in metropolitan areas. There, the ideal solution was, again, if not a tightly clustered urban medical center, then at least a set of institutions standing in rationalized, hierarchical relations with one another AHA b, esp. To conserve the capital available to hospitals and therefore to reduce their operating expenses following capital investment as well as to improve the distribution of health services, planners created new, mostly metropolitan planning agencies Activities in Hospital Councils b , ; AHA b ; CFHC , 70; Rorem ; Sigmond These agencies emerged through the work of ad hoc community committees e. Except for the Rochester council, they lacked antecedents in the rurally oriented programs that had inspired early advocates of regionalization. Instead, they typically reflected the concerns of the larger urban donors of capital, and planning was their principal activity AHA b , chaps. Public Health Service , 11â€”13, 52â€” Although the leaders of hospitals came from the same elites as did the leaders of rationalizing corporate donors, most hospital trustees and administrators and the ranking physicians on their medical staffs focused narrowly on their individual institutions, and many shared the economic boosterism of traditional local elites. Hard planning aimed to compel their cooperation with planning goals. This approach became prominent at two points when hospitals faced crises of legitimacy, once early in the planning era, when cost escalation first became an issue, and once after midcourse, when cost escalation and widespread concern about other problems in health care led to the regulation of hospital capacity by CON and, in some states, control of hospital charges by rate setting, not further considered here Davis et al. The time horizon of hard planning was short. Indeed, the prevention of construction was the operational measure of hard planning Columbia University ; Shain and Roemer ; Sibley ; Somers and Somers , , By putting out fires, planners hoped to gain the breathing room to install a more deliberate, rational, but soft planning regime. Later, however, the pressure of cost escalation offered no respite; a major factor in the fall of planning was its failure to stem cost escalation in the short term.

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Chapter 2 : United States labor law - Wikipedia

The same year the trajectory of this group of workers was marked by the discussion about the implementation of the Consolidated Labor Laws (ConsolidaÃ§Ã£o das Leis do Trabalho - CLT), the establishment of the first collective pay agreement for miners, and the taking of a lawsuit aimed at the right of payment of unhealthy conditions.

Still, there is no consensus on the amount of patient volume necessary for optimal performance of a trauma center Moore, Personnel and Training More than 30 years ago, the National Research Council NRC, spotlighted the paucity of trained emergency personnel at every level of care. The growth in the number of prehospital providers and the increase in their level of training are among the major achievements of the past three decades. The number of prehospital providers is estimated today at about , nationwide W. Accompanying this growth has been the creation and standardization of the prehospital curriculum. By virtue of its leadership and support for prehospital training and state highway grants, NHTSA is the federal agency with the most consistent and long-standing presence in trauma systems development U. Certification of prehospital providers also has progressed, with all 50 states having some kind of certification procedure BLS, However, there is much variability in requirements for certification U. Thirty-nine states certify prehospital providers who have passed written and practical examinations administered by the National Registry of Emergency Medical Technicians, a nonprofit certifying organization NREMT, Less than one quarter of the estimated , emergency medical technicians EMTs nationwide maintained their registration as of November W. There also has been considerable growth in the field of emergency medicine. The first emergency medicine residency program was formed in By , the number of accredited residency programs had expanded to M. Schropp, Society for Academic Emergency Medicine, personal communication, The first certifying examination was given in , one year after emergency medicine was recognized as a specialty by the American Medical Association Committee on Medical Education and the American Board of Medical Specialties. The number of board-certified emergency physicians catapulted to 15, by American Board of Emergency Medicine, personal communi- Page Share Cite Suggested Citation: Reducing the Burden of Injury: Advancing Prevention and Treatment. The National Academies Press. The stature of the profession has also improved with the ascension of emergency medicine to full department status in many academic medical centers. Finally, the profession of emergency nursing has grown and flourished. The field emerged as a nursing specialty around , when the Emergency Nurses Association was formed. By , membership in this organization rose to about 24,, as did membership in related organizations such as the Society of Trauma Nurses. Emergency nurses practice mostly in the prehospital and acute care setting. They typically are responsible for assessing and initiating care to stabilize and resuscitate patients and for care during transport of critical care patients. The role of the emergency nurse in the prehospital arena is continuing to evolve Adams and Trimble, Trauma care systems have traditionally focused on secondary and tertiary prevention i. Yet consensus has emerged that health professionals who manage trauma patients also should engage in primary prevention to keep an injury from occurring in the first place U. DOT, a; Garrison et al. The rationale for broadening the role of trauma providers to include primary prevention is that these health professionals have unique and direct experience with, and knowledge of, the consequences of injury, as well as a professional obligation to improve health and safety and to control health care costs. After reviewing the biomedical literature on existing and recommended primary prevention activities for out-of-hospital providers Kinnane et al. The statement recommended leadership activities and knowledge areas that are either essential or desirable. Some of the leadership activities deemed to be essential were the provision of education to EMS providers on primary injury prevention, the protection of individual EMS providers from injury, and the collection and use of injury data Garrison et al. Although a number of primary prevention programs by prehospital. The committee suggests that enhanced emphasis be placed on the development and evaluation of prevention programs by these providers, as well as by rehabilitation providers to prevent secondary complications of injuries. Further,

the committee believes that primary injury prevention should be incorporated into training curricula and continuing medical education pro- Page Share Cite Suggested Citation: Finally, the committee believes that there are financial incentives for employers, insurers, and others who pay for health care to adopt injury prevention, a point discussed later in the section on health care financing. Surveillance data from trauma systems are indispensable for monitoring outcomes, assessing system performance, determining the etiology and scope of the injury problem in a community, and influencing public policy. Yet no nationwide or nationally representative surveillance systems are operational for trauma systems as a whole nor for their separate elements i. Most surveillance systems currently in place are kept by individual trauma centers as a condition of trauma center designation Pollock and McClain, To instill greater uniformity, federal agencies and professional organizations have taken the initiative to develop and encourage the use of a variety of uniform data sets from prehospital, acute care, and rehabilitation providers. Working with the EMS community, NHTSA sponsored a conference in , the final product of which was a proposed set of 81 uniform prehospital EMS data elements, either essential or desirable, for patient severity and treatment, cause of injury, response, and transfer times, but not for outcomes under the rationale that these would have required linkages to the emergency department U. The ACS developed, specifically for trauma centers, the National Trauma Data Bank to serve as a voluntary national repository of data from trauma centers. The Uniform Data System for Medical Rehabilitation was developed with support from the National Institute on Disability and Rehabilitation Research to capture the severity of patient disability and the outcomes of rehabilitation. A number of states and regions have implemented laws that mandate inclusive trauma systems with comprehensive trauma registries. These data systems are driven by E-codes see Chapter 3 and have disease- and severity-specific information, as well as length of stay, morbidity and mortality, and charge information. Linkages between data sets covering prehospital, acute care, and rehabilitation providers are envisioned as a pivotal means of integrating information across trauma systems nationwide and of formulating public policy. Page Share Cite Suggested Citation: Once adopted, demonstration projects should be developed to determine the most cost-effective means of establishing linkages between prehospital care, acute care, and rehabilitation data sets. Research has been instrumental in the evolution of trauma systems. It has formed the underpinning for improved patient care and survival, reduced morbidity, and a national investment in trauma systems. In recognition of its vital role in advancing the trauma field, the ACS requires Level I trauma centers to conduct an active research program. Nevertheless, many prehospital, hospital, and rehabilitation providers do not participate in basic or clinical research, despite the existence of major gaps in knowledge across the entire spectrum, from basic research in tissue injury to health services research in trauma care systems. There is a dearth of funding for research on trauma systems design, effectiveness, and cost-effectiveness. The existing research support is fragmentary at best, and there is no critical mass of support and leadership. NCIPC has sustained an investment in trauma systems research, even though its extramural research program is beset by funding limitations. The overall problem is that trauma systems research falls under health services research, an area that has not fared well in the research hierarchy and competition for resources. Health services research, despite a critical need, is a field whose recognition and importance have come only in the past decade, at a time of persistent pressures to reduce the federal budget deficit. Health services research has not grown to a level commensurate with its significance to society. Department of Health and Human Services. Expectations for a research center at the National Institutes of Health were temporarily aroused in with the publication of A Report of the Task Force on Trauma Research , a congressionally mandated report for research recommendations to launch a trauma research program, including research in trauma systems NIH, However, the report went largely unnoticed; Congress did not appropriate funds for its implementation. A subsequent section of this chapter contains a recommendation to augment trauma systems evaluation and related research. States vary in their ability to collect data, and there are no ongoing and systematic nationwide or nationally representative surveillance systems U. The greatest growth appears to be in prehospital care. All but nonexistent in the s, prehospital care has become ubiquitous today. Although the sample is not nationally

representative and the methods and results are not peer reviewed, the survey is one of the only indicators of growth and trends. Stanton, National Emergency Number Association, personal communication, The nationwide status of regional trauma system development has been evaluated about every five years since through voluntary surveys of state EMS directors or health departments. Before , state efforts waxed and waned depending on the vicissitudes of federal, state, and local support Bazzoli et al. By , West and colleagues found only two states that had fulfilled eight components judged essential by the authors to constitute a regional trauma system see Table 6. By , when the survey was updated by Bazzoli and colleagues , five states were judged to have met the eight criteria. More states would have qualified except that they had failed to limit the number of trauma centers, depending on community need. The survey also found that states lacked standardized policies for interhospital transfer and systemwide evaluation. The authors advocated that more research on useful and valid outcome measures be included in trauma systems registries in order to assess system effectiveness. Subsequent nationwide updates were conducted in by Goodspeed and in by Bass Both studies found 27 states reported an established trauma system although the defining criteria for a system were left to state discretion by Goodspeed. Thus, there is evidence to suggest that the past decade has witnessed an increase in trauma systems. The increase is thought to be related to the availability of federal funding, especially through the catalytic role of the Federal Trauma Care Systems Planning and Development Act, which required state matching funds. However, the authorization for this legislation lapsed in , and it remains to be seen whether states will continue to invest in trauma systems development and maintenance without federal assistance.

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Chapter 3 : Coal miners, their employers, and labor laws: conflicts and strategies during World War II

The labor relations system that emerged from the Consolidation of Labor Laws (CLT), promulgated during the Estado Novo dictatorship, has long been shrouded in a rhetorical fog that obscured on- the- ground realities in Brazil's key industrial areas, such.

After the Declaration of Independence , slavery in the US was progressively abolished in the north, but only finished by the 13th Amendment in near the end of the American Civil War. Modern US labor law mostly comes from statutes passed between and , and changing interpretations of the US Supreme Court. Before the Declaration of Independence in , the common law was either uncertain or hostile to labor rights. More than half of the European immigrants arrived as prisoners, or in indentured servitude , [13] where they were not free to leave their employers until a debt bond had been repaid. Until its abolition, the Atlantic slave trade brought millions of Africans to do forced labor in the Americas. With the help of abolitionists , Somerset escaped and sued for a writ of habeas corpus that "holding his body" had been unlawful. Lord Mansfield , after declaring he should " let justice be done whatever be the consequence ", held that slavery was "so odious" that nobody could take "a slave by force to be sold" for any "reason whatever". This was a major grievance of southern slave owning states, leading up to the American Revolution in After independence, the British Empire halted the Atlantic slave trade in , [16] and abolished slavery in its own territories, by paying off slave owners in However, southern states did not. In Dred Scott v Sandford the Supreme Court held the federal government could not regulate slavery, and also that people who were slaves had no legal rights in court. Former slave owners were further prevented from holding people in involuntary servitude for debt by the Peonage Act of The Civil Rights Act of was also meant to ensure equality in access to housing and transport, but in the Civil Rights Cases , the Supreme Court found it was "unconstitutional", ensuring that racial segregation would continue. In dissent, Harlan J said the majority was leaving people "practically at the mercy of corporations". Labor is prior to and independent of capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is the superior of capital, and deserves much the higher consideration The prudent, penniless beginner in the world labors for wages awhile, saves a surplus with which to buy tools or land for himself, then labors on his own account another while, and at length hires another new beginner to help him. This is the just and generous and prosperous system which opens the way to all, gives hope to all, and consequent energy and progress and improvement of condition to all. No men living are more worthy to be trusted than those who toil up from poverty ; none less inclined to take or touch aught which they have not honestly earned. Let them beware of surrendering a political power which they already possess, and which if surrendered will surely be used to close the door of advancement against such as they and to fix new disabilities and burdens upon them till all of liberty shall be lost. Abraham Lincoln , First Annual Message Like slavery, common law repression of labor unions was slow to be undone. Unions still formed and acted. The first federation of unions, the National Trades Union was established in to achieve a 10 hour working day , but it did not survive the soaring unemployment from the financial Panic of But in the Massachusetts Supreme Judicial Court , Shaw CJ held people "are free to work for whom they please, or not to work, if they so prefer" and could "agree together to exercise their own acknowledged rights, in such a manner as best to subserve their own interests. It aimed for racial and gender equality, political education and cooperative enterprise, [25] yet it supported the Alien Contract Labor Law of which suppressed workers migrating to the US under a contract of employment. Industrial conflicts on railroads and telegraphs from led to the foundation of the American Federation of Labor in , with the simple aim of improving workers wages, housing and job security "here and now". Business reacted with litigation. The Sherman Antitrust Act of , which was intended to sanction business cartels acting in restraint of trade , [27] was applied to labor unions. The strike leader Eugene Debs was put in prison. The Supreme Court majority supposedly unearthed this "right" in the Fourteenth Amendment , that no State should "deprive any person of life, liberty, or property,

without due process of law. On questions of social and economic policy, courts should never declare legislation "unconstitutional". The Supreme Court, however, accelerated its attack on labor in Loewe v. Lawlor , holding that triple damages were payable by a striking union to its employers under the Sherman Act of This removed labor from antitrust law , affirming that the " labor of a human being is not a commodity or article of commerce" and nothing "in the antitrust laws" would forbid the operation of labor organizations "for the purposes of mutual help". Roosevelt urged that America develop Second Bill of Rights through legislation, including the right to fair employment, an end to unfair competition, to education, health and social security. Throughout the early 20th century, states enacted labor rights to advance social and economic progress. But despite the Clayton Act , and abuses of employers documented by the Commission on Industrial Relations from , the Supreme Court struck labor rights down as unconstitutional, leaving management powers virtually unaccountable. Business lost investment and fired millions of workers. Unemployed people had less to spend with businesses. Business fired more people. There was a downward spiral into the Great Depression. This led to the election of Franklin D. Roosevelt for President in , who promised a " New Deal ". Government committed to create full employment and a system of social and economic rights enshrined in federal law. In labor law, the National Labor Relations Act of guaranteed every employee the right to unionize, collectively bargain for fair wages, and take collective action, including in solidarity with employees of other firms. The Fair Labor Standards Act of created the right to a minimum wage, and time-and-a-half overtime pay if employers asked people to work over 40 hours a week. The Social Security Act of gave everyone the right to a basic pension and to receive insurance if they were unemployed, while the Securities Act of and the Securities Exchange Act of ensured buyers of securities on the stock market had good information. The Davisâ€”Bacon Act of and Walshâ€”Healey Public Contracts Act of required that in federal government contracts, all employers would pay their workers fair wages, beyond the minimum, at prevailing local rates. This accelerated as World War Two began. In , his health waning, Roosevelt urged Congress to work towards a " Second Bill of Rights " through legislative action, because "unless there is security here at home there cannot be lasting peace in the world" and "we shall have yielded to the spirit of Fascism here at home. Johnson explains the Civil Rights Act of as it was signed, to end discrimination and segregation in voting, education, public services, and employment. Although the New Deal had created a minimum safety net of labor rights, and aimed to enable fair pay through collective bargaining , a Republican dominated Congress revolted when Roosevelt passed away. Against the veto of President Truman , the Taft-Hartley Act of limited the right of labor unions to take solidarity action , and enabled states to ban unions requiring all people in a workplace becoming union members. A series of Supreme Court decisions, held the National Labor Relations Act of not only created minimum standards, but stopped or " preempted " states enabling better union rights, even though there was no such provision in the statute. As well as the crisis triggered by Brown v Board of Education , [49] and the need to dismantle segregation, job losses in agriculture, particularly among African Americans was a major reason for the civil rights movement , culminating in the March on Washington for Jobs and Freedom led by Martin Luther King Jr. Also, despite the increasing numbers of women in work, sex discrimination was endemic. The government of John F. Kennedy introduced the Equal Pay Act of , requiring equal pay for women and men. Johnson introduced the Civil Rights Act of , finally prohibiting discrimination against people for "race, color, religion, sex, or national origin. Bernie Sanders became the most successful Democratic Socialist presidential candidate since Eugene Debs , winning 22 states and He co-authored the Democratic platform, [50] before Hillary Clinton lost the electoral college to Donald Trump. Although people, in limited fields, could claim to be equally treated, the mechanisms for fair pay and treatment were dismantled after the s. The last major labor law statute, the Employee Retirement Income Security Act of created rights to well regulated occupational pensions , although only where an employer had already promised to provide one: But in , the Supreme Court in Buckley v Valeo held anyone could spend unlimited amounts of money on political campaigns, apparently as a part of the First Amendment right to " freedom of speech ". From this point, big business was able to lobby all politicians to stop any further progression of labor rights. After the Republican

President Reagan took office in , he dismissed all air traffic control staff who went on strike for fair wages, and replaced the National Labor Relations Board members with pro-management men. Dominated by Republican appointees, the Supreme Court suppressed labor rights, removing rights of professors, religious school teachers, or undocumented migrants to organize in a union, [51] allowing employees to be searched at work, [52] and eliminating employee rights to sue for medical malpractice in their own health care. The Immigration Reform and Control Act of criminalized large numbers of migrants. The Worker Adjustment and Retraining Notification Act of guaranteed workers some notice before a mass termination of their jobs. The Family and Medical Leave Act of guaranteed a right to just 12 weeks leave to take care for children after birth, all unpaid. The Small Business Job Protection Act of cut the minimum wage, by enabling employers to take the tips of their staff to subsidize the minimum wage. A series of proposals by Democrat and independent politicians to advance labor rights were not enacted, [54] and the United States began to fall behind all other developed countries in labor rights, [55] with stagnating real income growth , and lower human development , lower life expectancy , and higher poverty. Contract and rights at work[edit] See also: UK labour law , Canadian labour law , Australian labour law , European labour law , German labour law , French labour law , Indian labour law , and South African labour law Eleanor Roosevelt believed the Universal Declaration of Human Rights of "may well become the international Magna Carta of all men everywhere. Because individuals lack bargaining power , especially against wealthy corporations, labor law creates legal rights that override unjust[citation needed] market outcomes. Historically, the law faithfully enforced property rights and freedom of contract on any terms, [57] even if this was inefficient, exploitative and unjust[citation needed]. In the early 20th century, as more people favored the introduction of democratically determined economic and social rights over rights of property and contract in unequal[citation needed] markets, state and federal governments introduced law reform. Second, the Family and Medical Leave Act of creates very limited rights to take unpaid leave. In practice, good employment contracts improve on these minimums. Third, while there is no right to an occupational pension or other benefits, the Employee Retirement Income Security Act of ensures employers guarantee those benefits if they are promised. Fourth, the Occupational Safety and Health Act demands a safe system of work, backed by professional inspectors. Individual states are often empowered to go beyond the federal minimum, and function as laboratories of democracy in social and economic rights, where they have not been constrained by the US Supreme Court. Scope of protection[edit].

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Chapter 4 : *capital calendrierdelascience.com: calendrierdelascience.com?ocid=mailsignoutmd&AR=1

The case was only resolved in March, when the federal government published decree-law no. , altering the CLT so that the limitation of the working age in the mines would only come into force for labor contract after the enactment of the CLT.

The debate has caught the attention of governments and companies alike. President Barack Obama is calling for federal legislation that would require companies to guarantee workers paid sick days. And since San Francisco started requiring that in , nearly 20 cities and three states â€" Connecticut, Massachusetts and California â€" have passed similar measures. New York, Maryland and other states are considering laws too. Sixty-one percent of U. But only 20 percent of workers whose wages are at the bottom 10 percent get paid sick leave, compared with 87 percent in the top 10 percent. Seventy-four percent of full-time workers get paid sick leave, while 24 percent of part-time workers do, according to BLS. Despite the disparities, some industry groups are fighting against laws requiring sick leave pay. Lisa Horn, director of congressional affairs at Society for Human Resource Management, a human resource management trade group, says many companies are leaning toward policies that lump sick, personal and vacation days together. But she says laws force companies to scale back on those benefits to keep down the costs associated with people taking sick days off. Eileen Appelbaum, senior economist at Center for Economic and Policy Research, says mandated sick pay has not had a negative impact on some companies that have been surveyed. According to a survey the group did of businesses in Connecticut, which has required paid sick leave since , one-third of workers took no paid sick leave. In February, Wal-Mart, the largest U. Full-time workers can earn up to two personal days and about six days of sick leave pay a year. Randy Hargrove, a Wal-Mart spokesman, said the company also is reviewing its sick policy for part-time workers, who account for half of its 1. Currently, if part-time workers are ill, they have to use personal days. Starting July 1, full-time and part-time workers at company-owned restaurants will begin to accrue personal paid time off after one year of service that can be used for sick leave. An employee working an average of 20 hours a week will be eligible to accrue about 20 hours of paid time off a year. That is welcome news to workers who struggle to make ends meet when they take a sick day. But last year, she said she took time off when she was pregnant because of morning sickness. TODAY The labor law, also called labor law or labor, is the branch of law that regulates the relationship between employees and employers. It is established by a set of rules governed by the Consolidation of Labor Laws - CLT, the Federal Constitution a set of higher laws to the other in the case of the legal system and other sparse laws and unusual laws that are not in code or the Constitution. In labor law, there are two leading figures. One is the employee, individuals of individual providing services the functions performed in their working environment continuously the employer whose dependence towards fulfilling orders consists of the duties and functions given by this, and as compensation a paycheck prescribed in CLT. The other is the employer, usually a legal entity company who hires the employee services through a salary. It can also be an individual or a group of companies. Through working relationship, in which the employee renders services to the employer, the employment contract is the instrument that represents this relationship, being in it the rights and duties of the employee. It will vary according to the types of work and relations between them. The labor law has its origins based on the standards established by the International Labour Organization - ILO, the doctrines and customs of a people and the contracts and regulations of the company. Principle protector - protects the weakest part of the relationship between money and work. Principle of the primacy of reality - all contracts must be written and only the employment contract may be verbal or tacit, among other principles. Labor law in Brazil In Brazil, initially working relationship began in the exploitation of indigenous, since the discovery in An important milestone was the Golden Law, which abolished slavery in the country in In , with the proclamation of the Republic until were created Rural Courts, being planned, too, the creation of the first organ of the Labor Court in the country. In later years, it began operating Social Security. Already in , the Juvenile Code was

promulgated. At the stage of the President of Brazil Getulio Vargas government, labor law has undergone changes, and created the Ministry of Labour, Industry and Commerce and the Constitution. She has suffered frequent changes to adapt to social changes. In , there was the creation of a chapter on holidays and Security and the other on Occupational Medicine. Despite the criticism they consider the laws of CLT exaggerated, they are designed to benefit not only the worker but also the entrepreneur. The first rules were implemented by European States: Despite the traditions and cultures, labor rights were adapting to each country and seeking to value the individual, not only as a professional but as a man. In all, work-related problems have been solved by the same rules able to bring a social and economic development. And after seven constitutions came the , which is used today. Since it was enacted, she sought to enter the labor rights under Brazilian law of Article 6 until 11 and in any way they can be breached. They shall be maintained until the additional laws are passed. The Federal Constitution, the important articles that refer to the work are: Nevertheless, there are many rules that are not applied and rely on a complementary or ordinary law for its regulation or implementation.

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Chapter 5 : Project MUSE - Beyond Judicial Reform: Courts as Political Actors in Latin America

The Consolidation of Labor Laws (CLT) is the principal Brazilian legislative policy related to labor law and procedural work aoDireito. It was created by Decree-Law No. 5,, of May 1, and signed by President GetÃºlio Vargas during the Estado Novo period, between and , unifying all then existing labor legislation in Brazil.

Judicial Politics in Argentina. By Rebecca Bill Chavez. Stanford University Press, Labor Law and Brazilian Political Culture. University of North Carolina Press, Democratization and the Judiciary: Frank Cass Publishers, Cambridge University Press, Democratic Accountability in Latin America. Edited by Scott Mainwaring and Christopher Welna. Oxford University Press, University of Texas Press, Law is an essential ingredient in determining who gets what, when, and how. Yet until recently, law and its attendant institutionsâ€”courts, legal codes, and the legal professionâ€”were not an important component of social science research on Latin America. The quantity of research on the judiciary does not compare even remotely to the vast literature on presidents and assemblies, under either authoritarianism or democracy. Implicit in all these works is the notion that courts have an important effect on governance. Even in the breach, when they are subservient to the executive branch or responsive primarily to elites, courts set rules, reflect values, and allocate societal goods. This gives courts a degree of influence that may be as significant as that of the elected branches of government, even if it is less recognized and not always conducive to basic egalitarian ideals of democracy. This renewed interest in courts as political actors follows a long hiatus. The collapse of the law and development movement in the early s was engendered in part by recognition that many of the reforms it advocated might well have effects contrary to those sought by legal reformers. Courts were revealed to be far from their democratic ideal: This would seem in retrospect a reason for more study, rather than less. A first group has approached courts as dispute resolution mechanisms that can be improved through procedural reforms, with a focus on efficient problem solving aimed at economic development e. A second set of scholars has focused on the larger sociological context within which courts operate, and emphasized gaps in the application of the law as a reflection of patterns in overall society e. You are not currently authenticated. View freely available titles:

Chapter 6 : Health Planning in the United States and the Decline of Public-interest Policymaking

and the Limits of Democratization in Brazil, by the issuing of the Consolidated Labor Legislation (CLT), the bible of Brazilian labor law. emerged as a group.

This obligation is stronger, in proportion as the danger is the greater for the one and the trouble of preserving him the less for the other. Should a doctor bear the costs of the desired allocation just because he happens to have the requisite skill? Nozick, Anarchy, State, and Utopia Should society be able to compel a physician to render aid, on the grounds that its licensing statutes give the physician the benefit of an artificial monopoly? How should liability be confined to prevent runaway social engineering? Would a rule be workable that imposed a duty to give aid, unless the physician had a legitimate reason for refusing? Should a statute be passed that imposes on a physician the duty to give aid in an emergency? Should such a statute be passed only in a jurisdiction that has a good Samaritan law? For examples of good Samaritan laws, see Cal. On the duty to aid imposed by admiralty law, see G. In the modern urban setting, the hospital emergency ward has relieved the individual physician from many of the burdens of rendering individual emergency care. Should a hospital with an emergency ward be held liable for refusing to treat an emergency patient? Some courts, though not all, have so held. Winnebago County, 58 Wis. Receipt by a private hospital of federal funding may also have an effect on its freedom to deny members of the public use of its facilities, even if they are unable to pay. See Hill-Burton Act, 42 U. In recent years, freedom of contract has been severely limited in an effort to prevent discrimination in employment, housing, and public accommodation. Rinaldo, 67 Ohio Abs. On legislation controlling discrimination in the credit market, see p. Discussion on the pertinent legislation and case law in other fields lies outside the scope of this casebook. Cream of Wheat Co. That was purely his own affair, with which nobody else had any concern. Neither the Sherman Act, nor any decision of the Supreme Court construing the same, nor the Clayton Act, has changed the law in this particular. In the absence of any purpose to create or maintain a monopoly, the act does not restrict the long recognized right of trader or manufacturer engaged in an entirely private business, freely to exercise his own independent discretion as to parties with whom he will deal. And of course, he may announce in advance the circumstances under which he will refuse to sell. Trans-Missouri Freight Association, U. As the excerpts from the two preceding cases dealing with the validity of resale price-maintenance agreements show, a system committed to liberty of trade and competition requires close scrutiny of contract as an instrument of commercial and industrial organization. Freedom of contract cannot be used as a means to bring about unreasonable restraint of trade. Small wonder that freedom of contract has been subjected to extensive limitation through the antitrust laws, particularly the Sherman [1] and, Clayton Acts. To be sure, integration by contract both backwards and forwards , restricting the freedom of the distributor by means of resale price setting, tie-ins, [3] the allocation of territories, and other exclusive arrangements, is not the only means of integration. But contract integration has one advantage over ownership integration that is of particular importance; it enhances flexibility and thereby affords protection against the movement of the business cycle. Excellent illustrations are furnished by the excerpts from the Cream of Wheat and Colgate cases whose implications are still felt today, though less broadly and more remotely than before. Given unlimited scope, the refusal to deal is a means of controlling the distribution process and of enforcing resale price-maintenance agreements. The law has not gone so far as to take away the privilege of a single trader to deal with whom he pleases, but it"has expanded its control over what may be termed "joint action. And it would seem that he is free to announce in advance unilaterally the conditions under which he will refuse to deal with those who fail to abide by his wishes and thus, for example, is free to terminate a recalcitrant dealer who is unwilling to accede to a scheme in restraint of trade. So long as he acts unilaterally, he is safe, but once he enlists the help of others in the scheme of distribution, his privilege is forfeited; see, for example, United States v. It must be sufficient to sketch a few highlights and to point out that the field is a highly controversial one. Congress and the courts have vacillated when dealing with the legitimacy of vertical

integration. This is not surprising since the relevant antitrust statutes reflect different and somewhat inconsistent legislative purposes and, as a result, internal tensions exist within the antitrust structure. To make matters worse, a tension also exists between the "per se" and "rule of reason" yardsticks employed to determine the existence of an antitrust violation. A rule of reason standard requires the court to assay the economic consequences of business behavior and to ban only behavior that is "unreasonable" in purpose or effect. The application of this standard necessitates a comprehensive and costly economic analysis, a task for which courts may be most ill-suited Standard Oil Co. United States, U. Therefore, a catalogue of per se offenses has emerged. Within this category the courts are relieved of the necessity of a comprehensive economic analysis, since "the practice facially appears to be one that would almost always tend to restrict competition Unfortunately, "there is often no bright line separating per se from rule of reason analysis. Per se rules may require considerable inquiry into market conditions before the evidence certifies a presumption of anticompetitive effect. For example, while the Court has spoken of a per se rule against tying arrangements, it has also recognized that tying may have procompetitive justifications that make it inappropriate to condemn without considerable market analysis. Inquiry into market conditions is also necessary to determine the pro- or anti-competitive effects of exclusive dealings. Park and Sons, Co. The Court treated the scheme as an illegal restraint on alienation on the grounds that the seller sought to maintain prices after he had parted with the article. The scheme was declared illegal per se, and thus the public was given the benefit of price competition in the market subsequent to the first sale. Congress stepped in to overturn the decision, making resale price maintenance legal, but subsequent legislation restored the per se rule of the Dr. Consumer Goods Pricing Act of , 89 Stat. With regard to these there is a growing tendency to advocate a hands-off policy on the grounds of efficiency. This attitude is reflected in Continental TV, Inc. Although the Court explicitly said that it was not changing the per se rule in vertical price fixing, there has been an increasing tendency in the legal literature to question whether price and territory restraints can logically be treated differently under the per se rule. The testimony of L. Price Fixing and Market Division pt. Antitrust as History, 69 Minn. See further Chapter 4, Section 4 on dealer franchises. A statutory approach to the refusal-to-deal problem has been suggested by Vernon Mund in a report prepared for the Senate Small Business Committee Sen. The report proposed legislation "requiring producers of standard products who hold themselves out as dealing with the public, and who control a substantial percentage of the output in their area of practical shipment, to sell to all comers offering to meet the terms of sale" pp. His proposal was not unlike a section of the original Clayton Bill which passed the House in but was deleted by the Senate Committee before the passage of the Act. The excised section imposed a duty upon owners and transporters of hydroelectric energy, coal, oil, gas, and other minerals to sell to all responsible persons H. The Senate felt such a statute "would practically compel owners of the products named to sell to anyone or else decline to do so at the peril of incurring heavy penalties, [and] would project us into a field of legislation at once untried, complicated, and dangerous" S. The economic plight of workers laid off by plant shutdowns and relocations is not a new problem, but until recently it has been regarded as an unavoidable consequence of the market system. Traditionally, a belief in the mobility of both capital and labor supported the view that employers should be free to close or relocate when an operation became unprofitable due to obsolescence, increased transportation costs, or for other reasons. Over the last decades, however, the plight of workers, along with their families and communities, has become a matter of increasing national concern, and the traditional wisdom of leaving the problem of dislocation to free market decisionmaking has become problematical. It is not surprising that we observe a tendency, in recent years, to bring the problem of dislocation to courts and legislatures. First National Maintenance Corporation v. For example, one federal court quite recently refused to make a contract out of assurances by local managers and public relations experts that the plant would remain open if the joint efforts of management and the union were successful in making the plant profitable. Also unsuccessful was the argument, advanced in the same case, for the imposition of a duty to sell the plant to community interests, based on a "new concept of community property. Local , United Steel Workers of America v. United States Steel Corp. See further Abbington v.

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Freedom of contract, he argues, "in the utopian vision requires a social order in which people possess the practical ability to connect with each other to find meaning in their lives through common endeavor, a freedom that denies the life and death power of distant corporate managers over workers and their town. Feinman is associated with the Critical Legal Studies movement, a somewhat amorphous group of legal scholars and law reformers that is broadly concerned with the relationship between legal rules and institutions and the prerequisites for a "more humane, egalitarian and Studies, democratic society. On the movement, see The Politics of Law: A Progressive Critique D. These efforts have so far succeeded only with regard to the transfer of ownership of the Wireton steel mill. See the recent article in the New York Times of Jan. On the state level, similar efforts have also been largely unsuccessful. Only in three states, Maine, South Carolina, and Wisconsin, have legislatures acted favorably. See in general Aarons, Plant Closings: American and Comparative Perspectives, 59 Chi.

Chapter 7 : Export Chapter 2: The Basic Ideals of an Individualistic Law of Contracts and Their Erosion

Brazil's "new unionism," which emerged in the late s, declared itself class-oriented, by the labor movement in Brazil. O "novo sindicalismo" que.

Coal miners, their employers, and labor laws: These conflicts had direct legal consequences, indicating that labor activists chose a political and legal strategy as a means of ensuring labor rights. This strategy combined apparent confidence in and support for the Getulio Vargas administration, as well as great joy with and praise for the creation of the Labor Court, associated with strong pressure for the implementation of social legislation and the active use of legal instruments. In the middle of the dictatorship, this movement involved widely publicized official complaints in the labor courts with quite a daring objective: The increase in the exploitation of workers in Brazil during the Second World War was based on a Federal Decree number 4. In case of need and force majeur, it could even be extended beyond this is if companies deemed it necessary. In these companies workers were considered to be reservists in service and were treated as deserters if they were absent from work for longer than eight days without proper cause. An absence of just 24 hours implied a fine of three days wages. The mining companies created a social welfare system with housing, schools, shops, churches, health posts, hospitals and cinemas, amongst other things. This infrastructure, however, contrasted with the absence of minimum working conditions for the miners, who did not have any drinking water, a canteen, a bathroom, or any safety equipment, in addition to being subject to long working days and very high probabilities of accidents. Even without being supported by the law which was proved later in the judgments of the case in the Military Courts , Cadem sentenced of its employees for desertion for being absent from work. This traumatic event occurred in , the year the Rio Grande do Sul mines reached their production record 1. The imprisonment of almost workers was only one of the various labor conflicts which had labor related repercussions in the Rio Grande do Sul coal mining sector. The aim of this article is to discuss this series of conflicts and their direct impacts in the courts. This is linked to a recent general movement in the historiography of labor which stresses the role of law in general as a field of conflict under the theoretical influence of the writings of E. It is important to highlight that the work process in coal mining on an industrial scale has had, since its emergence in Europe, various particularities, including the need for large contingents of workers for production, the traditional isolation of towns, severe labor discipline and the constant risk of accidents and death during daily work. According to some authors, these sort of characteristics are determinant for social attributes such as group cohesion, the valorization of solidarity and courage, and the high level of political activism and militancy, 6 as well as widespread adhesion to long and violent strikes. The text is divided into three parts. Following this I will look at two important processes: This document, which registered the extraction of coal for that year, showed a decrease of production in November and December. For the board of the company blame was undoubtedly attributable to the CLT, which had reduced the underground shift from eight to six hours, "including in these same six hours the time spent in the journey from the mouth [entrance] of the mine to where they worked and vice-versa. The focus of its discontent were the article which reduced underground work in the mines and more especially the one which prohibited underground work for those less than 21 and older than 50 article The business initiative had no immediate success with the government. In November the CLT came into force with the unwanted articles. In a clear reprisal Cadem ordered the dismissal in one go on the same day of miners younger than 20 and older than 55, without either notice or compensation. The case was widely reported in the press, who did not spare any criticisms of the consortium. Even members of the government, such as the secretary of the Interior and ideologue of the future PTB, Alberto Pasqualini, complained. In response to a telegram from the trade union, the political leader released a note in which he stated that he had been "profoundly grieved" when he received the news, also saying that he believed the courts would not ignore the "cause of the humble miners. In the telegram sent to Vargas, the union observed that "once again it is shown the absolute contempt which this

employer has of the interests of its sacrificed workers, as well as the mockery of compliance with the law. The case was only resolved in March, when the federal government published decree-law no. Whether coincidence or not, six days after the new decree, Cadem rehired the fired workers with a newspaper advertisement. The firings can be interpreted as a demonstration of strength with which the consortium obtained a few months later the temporary suspension of the CLT article which displeased them. Similarly, the labeling as desertion and the consequent imprisonment functioned as a warning to the other workers against possible absences or the abandonment of work, coercing them to intensify their labor. Those who remained in toil were forced to produce ever more in less time to guarantee their jobs or even their liberty , in the attempt to compensate the departure of colleagues, which resulted in the growth of earnings per worker or seen in another manner, a brutal increase in the exploitation of miners. This is ratified by a table produced by Cadem itself and annexed to the lawsuit about unhealthy conditions which we will examine in more detail below. According to the document the monthly production record was reached in June, with a total of 62, tons daily production of tons. In December, however, production had fallen to 46, tons daily production of tons. The return per tocador worker , however, had increased: In January total production fell even more tons , but the return reached its high point: The unions leaders who took control of the organization in May , headed by Afonso Pereira Martins, invested heavily in a strategy to publicize the terrible conditions of workers with the federal government and to ask for its intervention in labor relations, as in the episode of the dismissals related to the CLT. In the trade union sent a memorial to the federal government outlining the harsh situation of the workers. Farias, in turn, sent it to the Minister of Labor, Alexandre Marcondes Filho, who sent two doctors to the mines, charged with preparing a report in the situation. Lawyers were hired for this: It was not just in the legal sphere that they represented the miners. In newspaper reports from the time, Porto Pires appeared speaking in the name of the workers and the trade union, as a type of qualified spokesman for workers who were predominantly illiterate. The miners took care not to hinder the war efforts in our country, with the labor demands judged in court and, for this, they delegated powers to their class organ to represent them in the hearings, thereby avoiding a fall in the daily production of coal. In this way, unlike what was published by the interested parties, neither the labor court cases, nor the reduction of work from eight to six hours per day, resulted in the slightest reduction of production We are certain that Your Excellency will recognize in these men the true and real soldiers of national production, who far from imitating the example of other countries, where strikes and violence have been the means to make demands on their employers, they never moved away from order and discipline. In the image configured in his words the workers were concerned with not harming the production of the mines, given the efforts of war; for this reason they had authorized the trade union to represent them in the hearings. Moreover, they neither went on strike or used violence; they were orderly and took pride in assuming the role of true soldiers of production; they only asked for the enforcement of the laws enacted by the government. We should not delude ourselves with this rhetoric of apparent submission. The main aim of the discourse is to defend the workers, accused by the mining companies of agitation and anti-patriotic insubordination. Despite the portrayal of submission and adhesion to the governmental project whether this was true or not , they demanded the fulfillment of their rights. Porto Pires was appointed the same year by the miners as their representative to speak to the reporters of A Noite newspaper, who they wanted to write a report on the situation in the mines. Speaking to the journalists, he alluded to criticisms of the Labor Courts published in the reports of the mining companies: I do not understand the need of the employers to take the necessary urgent measures in face of divergences of interpretation being verified between the representatives of the administrative authorities In the first place, we have not had any reports of any divergences, moreover it is legally impossible to find since the Labor Court, between us, is autonomous and does not depend on the thoughts of the administrative authority, and in second place, what is strange is the aspect of guardianship behavior aspect revealed by the directors of Cadem when they predict a serious impact on the worker, as a result of the divergences said to exist. It seems much more recommendable to me that Cadem should comply with the law, and thereby avoiding that the labor courts and the Military Supreme Court

continue to pronounce solely in favor of the miners, as has happened in recent months. More than this it gave the activists who were included in it and relied on it "a certain protection against the reprisals of employers, while the labor legislation offers a means, albeit a restricted one, of resolving certain worker necessities. The content of the legal petitions, their quantity, the various fronts on which the workers appealed pointing to significant intensification of the conflicts between employers and employees, fed by part of the latter with the purpose of guaranteeing minimally humane working condition in the terms which the legislation and government discourse qualified as just. This did not result in a fatalist acceptance of government measures, but rather the use of all possible legal spaces for the class struggle. It is symptomatic that Cadem managed to suspend the CLT article which limited the age of workers, as we have seen. The mining companies also obtained a great victory thanks to the direct intervention of the federal government in the case of the first collective wage agreement for miners in The collective wage petition also made an indignant denunciation of the working conditions in the mines, comparing the low wages with the high process of products sold in the stores and cooperative authorized to function in mining towns. In the first hearing, on 14 September, Cadem argued that CRT did not have the jurisdiction over the bargaining process. A new hearing was marked for 16 September, when two witnesses were heard: In the text of this petition, the lawyer Porto Pires made an allusion to a demonstration involving 2, miners, which clearly indicates an connection between direction action and a legal strategy in the middle of the Estado Novo dictatorship. Another episode of legal confrontation which did not have a positive result for the workers was the case of unhealthy conditions. It emerged out of an action taken in the ordinary courts by nine miners, which dragged on for years and ended up being rejected, not by the Executive, but by a decision in the sphere of the labor courts. This decree had created the minimum wage and also guaranteed a percentage increase of the pay of "workers occupied in operations considered unhealthy. For the Council the complaint was individual and thus had to be analyzed by the local courts. It dragged out for one more year, with successive appeals by the mining companies questioning any expert testimony which had unfavorable results for them. The National Department of Labor, an organ of the Ministry of Labor, in a move which favored the Consortium, stated that there was no scientific proof of the existence of unhealthy conditions in the mines. This report was based on the impossibility of obtaining radiological exams from miners made in the s or samples of coal from all the shafts where the miners worked, many of which were extinct or closed at the time of the court case. The Union submitted a mimeographed list showing that between and , at least 53 workers had filed lawsuits against the mining companies for having contracted occupational illnesses. The majority of the diagnoses were anthracosilicosis or pneumoconiosis, incapacitating lung diseases caused by breathing in dust. As shown in the table, Joaquim Amancio Gomes, aged 36, had fallen sick after only five years working in mining. While Pedro Teixeira de Oliveira, 57 years old, had worked for 40 years before taking a lawsuit due to occupational illness. Before leaving the mines he was prohibited by the doctors from returning underground. He reported that sometimes he had worked in water up to his knees. When sick the tocador Rodolfo Liota was advised by doctors not to work underground, but he did not want to do this as he was afraid of how to support his family. The testimonies were clear in identifying the principal problem: He stated this despite reporting at the end of his testimony that the underground environment was very humid, and "he had even found a miner working with one foot in a puddle of water. His argument had a different tone from what had been presented by the Union in and , since there appeared there the disillusionment with the inefficiency of the institutional instruments responsible for the enforcement of the labor laws. For the first time in the documents produced by the union we can find criticisms of the labor courts: This delay is a cause of amazement, when the paramount aim of the Labor Court is speed, the shortening of the facts and the celerity of its judgments. It comes as a shock that most of these obstacles are caused by or come from those who should avoid them or suppress them: The target was not only the recognition of the unhealthiness of the nine specific cases, but of this condition for all miners. This was very clear for all the persons involved at the time, given the attention the complaint attracted. The final decision was given in January Workers even presented medical certificates to prove that they were not

deserters, or more prosaic explanations, some bordering on the nonsensical. The disproportion between the punishment and the supposed absences were obvious: The certificates with the judgments absolving the miners in the Military Court were annexed to a lawsuit taken in in which the Union, representing seven miners who had been detained between and , demanding their readmission as miners and compensation. Two years after the lawsuit about unhealthy condition the strategy was the same: They proved later that they had not been notified, but the courts decided not to overturn the decision. In the first hearing on 9 May, Marques alleged that he presented himself to work in September after medical leave. Nevertheless, he was not allowed work, since the term of desertion had already been enacted. He brought two witnesses with him to prove that the company knew of the situation. The mining company did not accept the decision and appealed to the CRT, but the original sentence was confirmed and the compensation paid in February

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Chapter 8 : Project MUSE - The Politics of Justice: Rethinking Brazilâ€™s Corporatist Labor Movement

In addition, the debate on the regional and national procedural labor movement, the settings of labor law in the period of civil-military dictatorship, the nuances of the labor legislation and coeval jurisprudence gained place in the discussion that the thesis has fostered.

Days after the U. Between and , coffee prices fell from The coffee planters had grown dangerously dependent on government valorization. For example, in the aftermath of the recession following World War I , the government was not short of the cash needed to bail out the coffee industry. The program for warehoused coffee collapsed altogether. Government policies designed to favor foreign interests further exacerbated the crisis, leaving the regime alienated from almost every segment of society. Once the gold and sterling reserves were exhausted amid the collapse of the valorization program, the government was finally forced to suspend convertibility of the currency. Foreign credit had now evaporated. Vargas was a member of the gaucho-landed oligarchy and had risen through the system of patronage and clientelism, but had a fresh vision of how Brazilian politics could be shaped to support national development. He came from a region with a positivist and populist tradition, and was an economic nationalist who favored industrial development and liberal reforms. Vargas built up political networks, and was attuned to the interests of the rising urban classes. In his early years Vargas even relied on the support of the tenentes of the rebellion. Vargas understood that with the breakdown of direct relations between workers and owners in the growing factories of Brazil, workers could become the basis for a new form of political power â€” populism. Using such insights, he gradually established such mastery over the Brazilian political world that, upon achieving power, he stayed in power for 15 years. During this time, as the stranglehold of the agricultural elites eased, new urban industrial leaders acquired more influence nationally, and the middle class began to show strength. Along with the urban bourgeois groups, Northeastern sugar barons were left with a legacy of longstanding grievances against the paulista coffee oligarchs of the South. The decay of established sugar oligarchies of the Northeast had begun dramatically with the severe drought of After the abolition of slavery in the s, Brazil saw a mass exodus of emancipated slaves and other peasants from the Northeast to the Southeast, thus ensuring a steady supply of cheap labor for the coffee planters. With the understanding that the dominance of the landowners in the rural areas was to continue under Liberal Alliance government, the Northeastern oligarchies were thus integrated into the Vargas alliance in a subordinate status via a new political party, the Social Democratic Party PSD. As a candidate in , Vargas utilized populist rhetoric to promote middle class concerns, thus opposing the primacy but not the legitimacy of the paulista coffee oligarchy and the landed elites, who had little interest in protecting and promoting industry. Between â€”, Vargas followed a path of social reformism in attempt to reconcile radically diverging interests of his supporters. His policies can best be described collectively as approximating those of fascist Italy under Mussolini , with an increased reliance on populism. Reflecting the influence of the tenentes, he even advocated a program of social welfare and reform similar to New Deal in the United States , prompting U. President Franklin Roosevelt to proudly refer to him as "one of two people who invented the New Deal. He satisfied the demands of the rapidly growing urban bourgeois groups, voiced by the new to Brazil mass-ideologies of populism and nationalism. Like Roosevelt, his first steps focused on economic stimulus, a program on which all factions could agree. Favoring a state interventionist policy utilizing tax breaks, lowered duties, and import quotas to expand the domestic industrial base, Vargas linked his pro-middle class policies to nationalism , advocating heavy tariffs to "perfect our manufacturers to the point where it will become unpatriotic to feed or clothe ourselves with imported goods! With the Northeastern oligarchies now incorporated into the ruling coalition, the government focused on restructuring agriculture. To placate friendly agrarian oligarchs, the modernizing state not only left the impoverished domains of the rural oligarchs untouched, the government even helped the sugar barons cement their control over rural Brazil. Other forms included messianism, anarchic uprisings, and tax evasion , each of which was already common

practice before After mid the influence of the tenente group over Vargas rapidly waned, although individual tenentes of moderate tendency continued to hold important positions in the regime. With the ouster of the center-left tenentes from his coalition, his rightward shift would become increasingly pronounced by Towards dictatorship[edit] Vargas center during commemorations to mark the 50th anniversary of the Proclamation of the Republic , November 15, By Vargas developed what Thomas E. Skidmore and Peter H. Vargas copied fascist tactics, and shared their rejection of liberal capitalism. He abandoned the arrangements of the "provisional government" â€”34 which were characterized by social reformism that appeared to favor the generally left wing of his revolutionary coalition, the tenentes. A conservative insurgency in was the key turning point to the right. After the July Constitutionalist Revolution â€” a thinly-veiled attempt by the paulista coffee oligarchs to retake the central government â€” Vargas tried to recover support of the landed elites, including the coffee growers, in order to establish a new alliance of power. This only emboldened coffee oligarchs who launched a revolt in July , which collapsed after three months of armed combat. The result was further concessions, alienating the left wings of his coalition. The essential compromise was failing to honor the promises of land reform made during the campaign of To pacify his old paulista adversaries after their failed revolt, he ordered the Bank of Brazil to assume the war bonds issued by the rebel government. Vargas was also increasingly threatened by pro- Communist elements in labor critical of the rural latifundios by , who sought an alliance with the countries peasant majority by backing land reform. Despite the populist rhetoric of the "father of the poor", the gaucho Vargas was ushered into power by planter oligarchies of peripheral regions amid a revolution from above, and was thus in no position to meet Communist demands, had he desired to do so. In , armed with a new constitution drafted with extensive influence from European fascist models, Vargas began reining in even moderate trade unions and turning against the tenentes. The Great Depression intensified their strength. The same Great Depression that had ushered Vargas into power also emboldened calls for social reforms. With the challenges of the Paulista Revolt out of the way, and the looming mass-mobilization of a potential new enemyâ€” the urban proletariatâ€”Vargas grew more concerned with imposing a paternalistic tutelage over the working class, functioning to both control them and co-opt them. Vargas could unite with all sectors of the landed elites, however, to stem the Communists. The urban proletariat, often composed of immigrants, was from the more European in terms of population, culture, ideology, and level of industrial development and more urbanized Southeast. By mid Brazilian politics had been drastically destabilized. A revolutionary forerunner of Che Guevara , Prestes led the futile "Long March" through the rural Brazilian interior following his participation in the failed tenente rebellion against the coffee oligarchs. This experience, however, left Prestes, who only died in the s, and some of his comrades skeptical of armed conflict for the rest of his life. With center-left tenentes out of the coalition and the left crushed, Vargas turned to the only mobilized base of support on the right, elated by the atrocious, fascist-style crackdown against the ANL. Integralism , claiming a rapidly growing membership throughout Brazil by , began filling this ideological void, especially among the approximately one million Brazilians of German descent. It had all the visible elements of European fascism: The Integralists borrowed their propaganda campaigns directly from Nazi materials, including the usual traditionalist excoriations of Marxism and liberalism , and espousals of fanatical nationalism out of context in the heterogeneous and tolerant nation and "Christian virtues". In particular, they drew support from military officers, especially in the navy. Economic development[edit] The strong parallels between the political economy of Vargas and the European police states thus began to appear by , when a new constitution was enacted with direct fascist influence. After , fascist-style programs would serve two important aims: Passed on July 16, the Vargas government claimed that the corporatist provisions of the constitution of would unite all classes in mutual interestsâ€”the stated purpose of a similar governing document in Fascist Italy. Actually, this propaganda point had somewhat of a basis in reality. In practice, this meant decimating independent organized labor and attracting the "working class" to the corporative state. Of course, the advance of industry and urbanization enlarged and strengthened the ranks of urban laborers, presenting the need to draw them into some sort of alliance committed to the

modernization of Brazil. The constitution established a new Chamber of Deputies that placed government authority over the private economy and established a system of corporatism aimed at industrialization and reducing foreign dependency. These provisions essentially designated corporate representatives according to class and profession, organizing industries into state syndicates, but generally maintained private ownership of Brazilian-owned businesses. The â€”37 constitution, and especially the Estado Novo afterwards, heightened efforts to centralize authority in Rio de Janeiro and drastically limit provincial autonomy in the traditionally devolved , sprawling nation. This was its more progressive role, seeking to consolidate the revolution, displacing the institutional power of the paulista coffee oligarchs with a centralist policy that respected local agro-exporting interests, but created the necessary urban economic base for the new urban sectors. The modernizing legacy is firmly evident: The constitution of thus established a more direct mechanism for the federal executive to control the economy , pursuing a policy of planning and direct investment for the creation of important industrial complexes. State and mixed public-private companies dominated heavy and infrastructure industries, and private Brazilian capital predominated in manufacturing. There was also a significant growth of direct foreign investment in the s as foreign corporations sought to enlarge their share of the internal market and overcome tariff barriers and exchange problems by establishing branch plants in Brazil. The state thus emphasized the basic sectors of the economy, facing the difficult task of forging a viable capital base for future growth in the first place, including mining , oil , steel , electric power , and chemicals. However, on November 10, , Vargas made a national radio address denouncing the existence of a communist plot to overthrow the government, called the Cohen Plan Plano Cohen. In reality, however, Plano Cohen was forged in the government with the objective of creating a favourable atmosphere for Vargas to stay in power, perpetuating his rule and assuming dictatorial powers. The Communists had indeed attempted to take over the Government in November , in a botched coup attempt known as the Intentona Comunista Communist Attempt. He also announced the adoption by Presidential fiat of a new, severely authoritarian Constitution that effectively placed all governing power in his hands. The short interval was further evidence that the self-coup had been planned well in advance. Under this dictatorial regime the powers of the National Security Tribunal were streamlined, and it focused on the prosecution of political dissenters. Also, the powers of the police were greatly enhanced, with the establishment of DOPS, a powerful political police and secret service. Thus, Communists and other defendants accused of plotting coups were judged by the military court-martial system with the National Security Tribunal as the trial court of first instance for those cases , and not by the ordinary courts. With the advent of the Estado Novo regime, the National Security Tribunal became a permanent Court, and became autonomous from the rest of the Court system. It gained authority to adjudicate not only cases of Communist conspirators and other coup plotters, but it now tried anyone accused of being subversive or dangerous to the Estado Novo regime. Also, several extrajudicial punishments were inflicted by the police itself especially by the DOPS political police , without trial. However, neither were held â€” ostensibly due to the dangerous international situation. Instead, under an article of the Constitution that was supposed to be transitional pending new elections, the President assumed legislative as well as executive powers. For all intents and purposes, Vargas ruled for eight years under what amounted to martial law. Also, under the Constitution Vargas should have remained President for only six more years until November Insteadâ€”again presumably due to the dangerous international situationâ€”he remained in power until his overthrow in The Estado Novo dictatorship also greatly curtailed the autonomy of the Judicial branch, and suppressed the autonomy of the Brazilian States, that were governed by federal interventors, who discharged on a formally temporary basis , the legislative and executive powers. This episode is known as "Integralist Attempt" and was far from successful. Ten cruzeiro banknote, featuring a portrait of President Vargas. Between and , the duration of the Estado Novo, Vargas gave continuity to the formation of structure and professionalism in the State. He oriented the state to intervene in the economy, promoting economic nationalism. The movement towards a "New State" was significant, in that along with the dismissal of Congress and its political parties, he wanted to recognize the indigenous population. He gained great favor in their eyes, and was called the "Father

of the Poor". Besides gaining popularity with them, he provided them with tools to assist them in the improvement of their agrarian lifestyles. He felt that if the country were to progress that the Indians, the very symbol of Brazilianness, should reap the benefits, ridden the label of oppression the country.

DOWNLOAD PDF NOVO), EMERGED THE CONSOLIDATION OF LABOR LAWS CLT, WHICH GROUPED AND SYSTEMATIZED LABOR LAWS,

Chapter 9 : Vargas Era - Wikipedia

This was a dictatorship under which trade unions were rigidly controlled by the state, while the government drove the creation of a vast swath of social and labor laws embodied in the world-famous Consolidated Labor Laws (ConsolidaÃ§Ã£o das Leis do Trabalho [CLT]) of

Clarice G Speranza Coal miners, their employers, and labor laws: Tais conflitos sure to enforce laws. This strategy combined ap- tos. In the middle of the dictatorship, this movement involved widely publicized official complaints in the labor courts with quite a daring objective: The increase in the exploitation of workers in Brazil during the Second World War was based on a Federal Decree number 4. In case of need and force majeur, it could even be extended beyond this is if companies deemed it necessary. In these companies workers were considered to be reservists in service and were treated as deserters if they were absent from work for lon- ger than eight days without proper cause. An absence of just 24 hours implied a fine of three days wages. The mining companies created a social welfare system with housing, schools, shops, churches, health posts, hospitals and cin- emas, amongst other things. Even without being supported by the law which was proved later in the judg- ments of the case in the Military Courts , Cadem sentenced of its employ- ees for desertion for being absent from work. This traumatic event occurred in , the year the Rio Grande do Sul mines reached their produc- tion record 1. The imprisonment of almost workers was only one of the various labor conflicts which had labor related repercussions in the Rio Grande do Sul coal mining sector. The aim of this article is to discuss this series of conflicts and their direct impacts in the courts. This is linked to a recent general movement in the his- toriography of labor which stresses the role of law in general as a field of con- flict under the theoretical influence of the writings of E. It is important to highlight that the work process in coal mining on an industrial scale has had, since its emergence in Europe, various particularities, including the need for large contingents of workers for production, the December Clarice Gontarski Speranza traditional isolation of towns, severe labor discipline and the constant risk of accidents and death during daily work. According to some authors, these sort of characteristics are determinant for social attributes such as group cohesion, the valorization of solidarity and courage, and the high level of political activ- ism and militancy,6 as well as widespread adhesion to long and violent strikes. The text is divided into three parts. Following this I will look at two important processes: This document, which registered the extraction of coal for that year, showed a decrease of production in November and December. The focus of its discontent were the article which reduced underground work in the mines and more especially the one which prohibited underground work for those less than 21 and older than 50 article The business initiative had no immediate success with the government. In November the CLT came into force with the unwanted articles. In a clear reprisal Cadem ordered the dismissal in one go on the same day of miners younger than 20 and older than 55, without either notice or compensation. The case was widely reported in the press, who did not spare any criticisms of the consortium. Even members of the government, such as the secretary of the Interior and ideologue of the future PTB, Alberto Pasqualini, complained. The case was only resolved in March, when the federal government pub- lished decree-law no. Whether coincidence or not, six days after the new decree, Cadem rehired the fired workers with a newspaper advertise- ment. December Clarice Gontarski Speranza The firings can be interpreted as a demonstration of strength with which the consortium obtained a few months later the temporary suspension of the CLT article which displeased them. Similarly, the labeling as desertion and the consequent imprisonment functioned as a warning to the other workers against possible absences or the abandonment of work, coercing them to in- tensify their labor. Those who remained in toil were forced to produce ever more in less time to guarantee their jobs or even their liberty , in the attempt to compensate the departure of colleagues, which resulted in the growth of earnings per worker or seen in another manner, a brutal increase in the ex- ploitation of miners. This is ratified by a table produced by Cadem itself and annexed to the lawsuit about unhealthy conditions which we will examine in more detail below. According to the

document the monthly production record was reached in June, with a total of 62, tons daily production of tons. In December, however, production had fallen to 46, tons daily production of tons. The return per tocador worker , however, had increased: In January total production fell even more tons , but the return reached its high point: The unions leaders who took control of the organization in May , headed by Afonso Pereira Martins, invested heavily in a strategy to publicize the terrible condi- tions of workers with the federal government and to ask for its intervention in labor relations, as in the episode of the dismissals related to the CLT. In the trade union sent a memorial to the federal government outlin- ing the harsh situation of the workers. Farias, in turn, sent it to the Minister of Labor, Alexandre Marcondes Filho, who sent two doctors to the mines, charged with preparing a report in the situation. Lawyers were hired for this: It was not just in the legal sphere that they represented the miners. In newspaper reports from the time, Porto Pires appeared speaking in the name of the workers and the trade union, as a type of qualified spokesman for work- ers who were predominantly illiterate. The miners took care not to hinder the war efforts in our country, with the labor demands judged in court and, for this, they delegated powers to their class organ to represent them in the hearings, thereby avoiding a fall in the daily production of coal. In this way, unlike what was published by the interested parties, neither the labor court cases, nor the reduction of work from eight to six hours per day, resulted in the slightest reduction of production We are certain that Your Excellency will recognize in these men the true and real soldiers of national production, who far from imitating the example of other countries, where strikes and violence have been the means to make demands on their employers, they never moved away from order and discipline. In the image configured in his words the workers December Clarice Gontarski Speranza were concerned with not harming the production of the mines, given the ef- forts of war; for this reason they had authorized the trade union to represent them in the hearings. Moreover, they neither went on strike or used violence; they were orderly and took pride in assuming the role of true soldiers of pro- duction; they only asked for the enforcement of the laws enacted by the government. We should not delude ourselves with this rhetoric of apparent submission. The main aim of the discourse is to defend the workers, accused by the mining companies of agitation and anti-patriotic insubordination. Despite the por- trayal of submission and adhesion to the governmental project whether this was true or not , they demanded the fulfillment of their rights. Porto Pires was appointed the same year by the miners as their representa- tive to speak to the reporters of A Noite newspaper, who they wanted to write a report on the situation in the mines. Speaking to the journalists, he alluded to criticisms of the Labor Courts published in the reports of the mining companies: I do not understand the need of the employers to take the necessary urgent mea- sures in face of divergences of interpretation being verified between the repre- sentatives of the administrative authorities In the first place, we have not had any reports of any divergences, moreover it is legally impossible to find since the Labor Court, between us, is autonomous and does not depend on the thoughts of the administrative authority, and in second place, what is strange is the aspect of guardianship behavior aspect revealed by the directors of Cadem when they predict a serious impact on the worker, as a result of the divergences said to ex- ist. It seems much more recommendable to me that Cadem should comply with the law, and thereby avoiding that the labor courts and the Military Supreme Court continue to pronounce solely in favor of the miners, as has happened in recent months. The content of the legal petitions, their quantity, the various fronts on which the workers appealed pointing to significant intensification of the conflicts between employers and employees, fed by part of the latter with the purpose of guaranteeing minimally humane working condition in the terms which the legislation and government discourse qualified as just. This did not result in a fatalist acceptance of government measures, but rather the use of all possible legal spaces for the class struggle. It is symptomatic that Cadem managed to suspend the CLT article which limited the age of workers, as we have seen. December Clarice Gontarski Speranza The mining companies also obtained a great victory thanks to the direct intervention of the federal government in the case of the first collective wage agreement for miners in The collective wage petition also made an indignant denunciation of the working conditions in the mines, comparing the low wages with the high process of products sold in the stores and cooperative authorized to

function in mining towns. In the first hearing, on 14 September, Cadem argued that CRT did not have the jurisdiction over the bargaining process. A new hearing was marked for 16 September, when two witnesses were heard: In the text of this petition, the lawyer Porto Pires made an allusion to a demonstration involving 2, miners, which clearly indicates an connection between direction action and a legal strategy in the middle of the Estado Novo dictatorship. Another episode of legal confrontation which did not have a positive re- sult for the workers was the case of unhealthy conditions. It emerged out of an action taken in the ordinary courts by nine miners, which dragged on for years and ended up being rejected, not by the Executive, but by a decision in the sphere of the labor courts. Behind these individual workers, however, was the Union, which led the action the whole time, acting as the representative of a group of workers â€" which could be considered as a transformation in practice of an individual right into a collective one. For the Council the complaint was individual and thus had to be analyzed by the local courts. It dragged out for one more year, with successive appeals by the mining companies question- ing any expert testimony which had unfavorable results for them. The National Department of Labor, an organ of the Ministry of Labor, in a move December Clarice Gontarski Speranza which favored the Consortium, stated that there was no scientific proof of the existence of unhealthy conditions in the mines. This report was based on the impossibility of obtaining radiological exams from miners made in the s or samples of coal from all the shafts where the miners worked, many of which were extinct or closed at the time of the court case. The Union submitted a mimeographed list showing that between and , at least 53 workers had filed lawsuits against the mining companies for having contracted occupational illnesses. The majority of the diagnoses were anthracosilicosis or pneumoconiosis, incapacitating lung diseases caused by breathing in dust. As shown in the table, Joaquim Amancio Gomes, aged 36, had fallen sick after only five years working in mining. While Pedro Teixeira de Oliveira, 57 years old, had worked for 40 years before taking a lawsuit due to occupational illness. Before leaving the mines he was prohibited by the doctors from returning underground. He reported that sometimes he had worked in water up to his knees. When sick the tocador Rodolfo Liota was advised by doctors not to work underground, but he did not want to do this as he was afraid of how to support his family. The testimonies were clear in identifying the principal problem: His argument had a different tone from what had been presented by the Union in and , since there appeared there the disillusionment with the inefficiency of the institutional instruments responsible for the en- forcement of the labor laws. For the first time in the documents produced by the union we can find criticisms of the labor courts: This delay is a cause of amazement, when the paramount aim of the Labor Court is speed, the shortening of the facts and the celerity of its judgments. It comes as a shock that most of these obstacles are caused by or come from those who should avoid them or suppress them: The target was not only the recognition of the unhealthiness of the nine spe- cific cases, but of this condition for all miners. This was very clear for all the persons involved at the time, given the at- tention the complaint attracted. The final decision was given in January Imprisonment for Desertion The case of imprisonment for desertion, which equally dragged itself out beyond the Estado Novo, also had a disappointing final result for the miners, although the Union achieved some legal victories at the beginning â€" because the truculent imprisonments for desertion were reported with great emphasis and drama by the newspapers in The disproportion between the punishment and the supposed absences were obvious: The certificates with the judgments absolving the miners in the Military Court were annexed to a lawsuit taken in in which the Union, represent- ing seven miners who had been detained between and , demanding their readmission as miners and compensation. Two years after the lawsuit about unhealthy condition the strategy was the same: They proved later that they had not been notified, but the courts decided not to overturn the decision. In the first hearing on 9 May, Marques alleged that he presented himself to work in September after medical leave. Nevertheless, he was not al- lowed work, since the term of desertion had already been enacted. He brought two witnesses with him to prove that the company knew of the situation. The mining company did not accept the decision and appealed to the CRT, but the original sentence was confirmed and the compensation paid in February This phenomenon led to an apprenticeship on the part of workers, and also employers, about the use of legal instruments, turning

structuring categories and notions of the labor court judiciary and labor law into important components in the set of other factors, such as the daily experi- ence of labor, community law and political and trade union activists. While the observance of this apprenticeship allowed reinforcement of the repulsion of the idea of a passive connection between the Brazilian worker and the Estado Novo project, it cannot be denied that its relationship with this law and with the state was covered in ambiguities. The lack of inspection of indus- tries and the defeats in the courts led to a declared skepticism in relation to effectiveness of norms, but this came to coexist with the increasing quantity of labor complaints made by activists and by common workers. It is evident that the state-working class relationship in Brazil cannot be discussed without un- derstanding this mixture of apparently paradoxical discourses and actions of workers in relation to the application of justice in labor relations, especially from the s onwards. Labor, Law and the State in Brazil: Paz e Terra,