

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

Os mineiros de carvão, seus patrões e as leis sobre trabalho: conflitos e estratégias durante a Segunda Guerra Mundial

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RESUMO

O artigo examina uma série de conflitos ocorridos entre trabalhadores das minas de carvão e seus patrões no Rio Grande do Sul em 1943, relacionados à pressão pelo cumprimento de leis. Tais conflitos tiveram desdobramentos diretos no Judiciário, indicando uma opção dos militantes sindicais pela estratégia legal e política como forma de garantir direitos. Essa estratégia combinava um discurso de aparente confiança e apoio ao governo de Getúlio Vargas, e de júbilo e elogio pela instalação da Justiça do Trabalho, porém associados a uma cobrança intensa pelo cumprimento da legislação social e à utilização ativa dos instrumentos jurídico-legais. Palavras-chave: mineiros de carvão; trabalho; justiça.

ABSTRACT

The article examines a series of conflicts between coal miners and the Rio Grande do Sul mining companies in 1943, all of which were related to pressure to enforce 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.

Keywords: coal miners; labor; social laws.

The period of the *Estado Novo* (literally New State) and the Second World War, when the discourse about the enactment of new 'social' laws and the exploitation of workers intensified in a parallel manner, was a key moment in the development of the relationship between the judiciary, mining companies,

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and miners in Rio Grande do Sul. 1943 in particular saw a intense movement on the part of workers, represented by the Trade Union of Workers in the Coal Extraction Industry of São Jerônimo,¹ to guarantee the enforcement of laws and to protect themselves from arbitrary employer actions – such as the imprisonment of miners who missed work for desertion. In the middle of the dictatorship, this movement involved widely publicized *official complaints* in the labor courts with quite a daring objective: radically changing labor relations in the mines.

The increase in the exploitation of workers in Brazil during the Second World War was based on a 1942 Federal Decree (number 4.937), published in November of that year. The decree of the state of war against Italy three months previously had opened the path for the suspension of various laws related to workers' conditions and rights. Paoli notes, for example, that the working day was extended from eight to ten hours in exchange for an increase of 20% of the value paid per hour's work. In case of need and *force majeure*, it could even be extended beyond this is if companies deemed it necessary.² Decree 4.937 created the classification of 'military interest' for factories considered essential for the war industry. 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.

However, the coal mines in Rio Grande do Sul were never officially considered as being of 'military use.' What the federal government actually did in relation to the mines during the Second World War was to consider the workers who produced and transported coal as 'mobilized.'³ The measure was aimed at preventing workers from leaving their employment and deterring the transfer of workers between companies. It also gave the Directorate of Mineral Production of the Secretary of Agriculture of Rio Grande do Sul the responsibility for any labor problems.

At the time more than 7000 miners worked in the two main factory towns of Arroio dos Ratos and Butiá, both in the then municipality of São Jerônimo. Brazilian coal production was virtually monopolized by Cadem (*Consórcio Administrador de Empresas de Mineração* – Administering Consortium of Mining Companies), the result of merger of the two principal mining companies (*Companhia Estrada de Ferro e Minas São Jerônimo* and *Companhia Carbonífera Minas do Butiá*). 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.

Intentional or not, the confusion between ‘mobilized’ workers and industries of ‘military interest’ was the cause of one of the most dramatic confrontations between employers and workers in the Rio Grande do Sul coal mines. Even without being supported by the law (which was proved later in the judgments of the case in the Military Courts), Cadem sentenced 290 of its employees for desertion for being absent from work. They were sought by the local military detachment and the police of São Jerônimo, and after being arrested they were sent to the *Casa de Correção* (jail) in Porto Alegre, where they spent months before being finally tried by the Military Courts. This traumatic event occurred in 1943, the year the Rio Grande do Sul mines reached their production record (1.34 million tons or 65% of Brazilian production).

The imprisonment of almost 300 workers was only one of the various labor conflicts which had labor related repercussions in the Rio Grande do Sul coal mining sector. The same year the trajectory of this group of workers was marked by the discussion about the implementation of the Consolidated Labor Laws (*Consolidação 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 (stipulated in the legislation which created the minimum wage in 1940).

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. P. Thompson).⁴ It assumes that the initial moments of the effective implementation of labor legislation and the labor courts in the country in the 1940s, are fundamental for understanding the formation of the identity of Brazilian workers.⁵ I thus intend to examine the injunctions on the decision of the miners and the militant unions to opt for judicial resources, in the expectation of placing limits on arbitrary decision-making by employers, ratifying and legitimating, through its practices, the institutionalization of the specialized judicial sphere in conflicts between workers and employers.

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.⁷ In practice, however, these determinations can also be seen as spaces of contradictions and conflicts. According to Klubbock, “miners’ political culture does not reflect an autonomous and univocal identity, dictated by the structural circumstances of their work.”⁸ The structural elements, as well as employer and state ideology, are *historically* recombined, restructured and re-signified.

The text is divided into three parts. In the beginning, I will discuss the conflicts over the enactment of the CLT and the adoption of a legalist strategy by the miners’ union, involving the hiring of lawyers and a conscious policy of pressurizing the government and the courts for the enforcement of the lights included in laws. Following this I will look at two important processes: the collective wage agreement judged in 1943 and the *legal complaint* of a group of workers asking for official acknowledgement of unhealthy conditions. Finally, I will examine in greater detail the impacts of the episode involving the imprisonment of ‘deserter’ miners, mentioned rapidly in this introduction.

CLT CONFLICTS AND THE TRADE UNION’S LEGALIST STRATEGY

The discontentment of coal mining companies with the enactment of the CLT, due to a number of articles which gave special rights to miners (especially the reduction of the working day and limiting of the age for underground work), was obvious in *Companhia Carbonífera Minas do Butiá’s* 1943 balance sheet. 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.”⁹

In September 1943, Cadem had asked the federal government to revise the CLT, which had not yet come into force. The focus of its discontent were the article which reduced underground work in the mines (293) and more especially the one which prohibited underground work for those less than 21 and older than 50 (article 301).¹⁰ The director of Cadem, Roberto Cardoso,

accompanied by the businessman Guilherme Guinle – a shareholder in the *Companhia Estrada de Ferro e Minas de São Jerônimo* and president of *Companhia Docas de Santos* –, met with the president of Brazil, Getúlio Vargas, to personally appeal for the revision of the provisions related to the limitations on age, which would “seriously harm the companies’ efforts, preventing them from answering the appeal of President Vargas for the greater production of coal.”¹¹ Cadem wanted permission to dribble the law, keeping the minors already employed underground, and promising not to hire new adolescent miners.

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 300 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.”¹²

The mining union also sent telegrams about the ‘nefarious measure’ to President Vargas, the Minister of Labor, and the state *interventor* (governor), all signed by the then union president, Afonso Pereira Martins. 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 state *interventor*, Ernesto Dornelles, in turn, accepted the Consortium’s reasoning, sending an official letter to the federal government with the request that the miners who had been fired be allowed to work, under the penalty of production in the mines falling, harming rail and road transport, as well as the industrial park of the country.

The case was only resolved in March, when the federal government published decree-law no. 6.563, 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. This was exactly the proposal made by Cardoso to Getúlio Vargas the previous year. Whether coincidence or not, six days after the new decree, Cadem rehired the fired workers with a newspaper advertisement. Detail: only those younger than 21 were rehired, not those older than 55.

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). The table indicates both the fall in production in the Butiá mines in 1943 and the increase of productivity (return) per worker, in a paradoxical contrast. According to the document the monthly production record was reached in June, with a total of 62,200 tons (daily production of 2300 tons). In December, however, production had fallen to 46,200 tons (daily production of 1800 tons). The return per *tocador* (worker), however, had increased: from 8.3 tons in June to 8.9 tons in December. In January 1944 total production fell even more (4515 tons), but the return reached its high point: 9.4 tons.

The climate of conflict aggravated by the increase in exploitation of workers appears to have intensified even more due to the strategy of intense legal confrontation undertaken by the leaders of the miners' union. The unions leaders who took control of the organization in May 1942, 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 1942 the trade union sent a memorial to the federal government outlining the harsh situation of the workers. Signed by one of the union's lawyers, Raul Rebelo Vital, the document was sent to the then federal *interventor*, Coronel Osvaldo Cordeiro de Farias, in January 1943. 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. Part of this report, which listed a series of irregularities in the mines, was published in the newspaper *Correio do Povo*, with examples of this issue being stuck to the doors of the union's head office (Arroio dos Ratos) and its branch (Butiá).¹³ Afterwards inspectors from the Regional Labor Office (DRT) were enlisted by the miners' union as witnesses in legal cases.

In addition to seeking governmental action in labor relations through denunciations of the exploitation of miners underground, and of cultivating a close relationship with the DRT (even proposing votes of thanks to its leaders)¹⁴ and with politicians identified with a proposal of the inclusion and protection of workers (the case of Paqualini), the miners' union also adopted another strategy: active intervention in the legal sphere in defense of compliance with the 'social legislation' then being systematized by the Vargas government. Lawyers were hired for this: in addition to Raul Vital and Artur Porto Pires in Porto Alegre, the union also counted on Aarão Stembruch (in Rio de Janeiro) and Antonio Domingos Pinto (in São Jerônimo), in a demonstration of the organization's economic capacity.

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. It is he, for example, who greeted as a "representative of the Miners' Union" the then federal *interventor* in Rio Grande do Sul, Ernesto Dorneles, in a visit to the mines in 1944:

The workers could not but declare and clarify before Your Excellency the position of labor relations in the *Consórcio Administrador das Empresas de Mineração*, above all, through the publicity and repercussion it had at the national level, the demands requested based on the text of the law. *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...* the miners are only demanding from the company, through the intermediation of the labor courts, *the rights granted them by the Brazilian government*, in favor of all the workers ... 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*.¹⁵

In his speech the lawyer sought to show the alignment between the purposes and the beliefs of the workers and the government, placing in opposition to them Cadem's policies. 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.¹⁶

It is curious that Porto Pires speaks of supposed 'guardianship' behavior of companies in relation to workers, counterpoising this to the strict compliance of the law. The same word – 'guardianship' – was associated by social scientists, much later, with the controlling action of the corporatist state, one of whose principal instruments was the labor courts. In the lawyer's speech, however, guardianship was only related to company behavior not the government's.

Nevertheless, the ‘legalist’ action of the union, exposing the scandalous conditions of the miners’ work and demanding measures from the federal government, occurred at the moment of the affirmation of the governmental project of intervention in labor relations in the search for ‘harmony between the classes.’ Even when this interventionism was accompanied by the strict repression of workers seen as subversives, and imposed restrictive structures (the banning of strikes, defined as ‘anti-social resources’), it offered space for worker action and demands. 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.”¹⁷ This protection was required in such a way that the actual mediator of the law – the labor lawyer – became the spokesperson of the miner leaders, both in the legal and political sphere. The government faced difficulties in repressing the actions of a workers’ trade union, even when incisive, if this occurred in the molds delimited by the state and if it were vaunting at every moment its support for the Vargas project.

To the contrary of the corporatist idea of ‘harmony between classes,’ and despite the support and the reiterated appeal to Vargas and his adepts, the action of the union, however, did not in practice imply the reconciliation of interests between employers and employees. 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.

THE COLLECTIVE AGREEMENT AND THE UNHEALTHY CONDITIONS LAWSUIT

However, the search for governmental intervention on the part of workers did not necessarily signify success in obtaining demands, even if they were explicitly stipulated in labor legislation and the Vargas’ discourse. Most often state action endorsed the reaction of employers and their ‘disciplinary’ measures, denying effectiveness to the stipulated rights. 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 1943. In the bargaining process the workers asked for an increase of 40%, drinking water and sanitation underground, a canteen on the surface, and the free supply of carbide, the fuel used in their lamps, which was provided by the mining companies but docked from wages. 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.

The collective bargaining process started in the 4th Regional Labor Council (*Conselho Regional do Trabalho* – CRT) in Porto Alegre on 23 August. Three days later the Union sent a petition to the coordinator of Economic Mobilization listing a series of irregularities in Cadem's payment of miners, as well as stating that in reprisal to the presentation of the collective bargaining process, the consortium had temporarily suspended the *doble*, i.e., the already mentioned practice of miners to work two consecutive shifts (16 hours at the time) to increase their production linked earnings. Despite considering the *doble* to be 'nefarious' and 'illegal' the Union believed that miners needed to first of all have their wages increased "to afterward have the necessary courage to resist the *doble* which annihilated all resistance." Finally, the organization asked the coordinator of Economic Mobilization to personally visit to see at first hand the 'calamitous situation' of the mines.¹⁸

The Union also took care to send a personal telegram to Vargas informing him of the collective bargaining. 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: a DRT employee and the engineer-in-chief of the Butiá Mines. The DRT inspector described a scenario of very degraded working conditions, but it was the engineer's testimony which contained some staggering passages. He stated, for example, that the underground latrines could remain open for four months with the fecal material of the miners being deposited there every day, while the smell from them was noticeable at a distance of 'at the most' 15 meters underground.

On the same day that the witnesses began to be heard in the this bargaining process, the federal government issued a decree suspending, under the pretext of the state of war, the implementation of collective agreements already granted, ordering that these be sent to the Minister of Labor, Industry and Commerce, where they could be judged 'inopportune' and suspended.¹⁹ The

mining union sent the Minister of Labor a request for the bargaining process to continue, but without success. In the text of this petition, the lawyer Porto Pires made an allusion to a demonstration involving 2,000 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. Behind these individual workers, however, was the Union, which led the action the whole time, acting as the representative of a group of workers – which could be considered as a transformation in practice of an individual right into a collective one.

The nine workers who officially made the *complaint* asked in total for a wage increase of Cr\$ 43,380.00, representing extras of between 20% and 40%, based on Decree Law 2.162, dated 1940. This decree had created the minimum wage and also guaranteed a percentage increase of the pay of “workers occupied in operations considered unhealthy.” Another decree (2.308, also from 1940) contained a list of unhealthy industries and explicitly cited “operations which released silica dust in underground work in mines or tunnels (operations involving dismantling, transport to the area of dismantling, stowage).” It thus appeared to be a mere case of ‘enforcing the law.’²⁰

However, the case was complicated since the beginning (August 1943). In the first hearings, the local judge from São Jerônimo, Theodoro Appel, (the common courts were used as the labor court had not yet been established in the municipality), accepted a point made by the Consortium and ruled himself unable to judge the question, since it involved a *collective* and individual lawsuit. The Union appealed to the CRT in Porto Alegre, which overturned Appel’s judgment and sent the case back to him. For the Council the complaint was individual and thus had to be analyzed by the local courts.

From the hand of Appel the case was transferred in 1946 to the Labor Court Panel that that recently been established in São Jerônimo. It dragged out for one more year, with successive appeals by the mining companies questioning any expert testimony which had unfavorable results for them. In addition to the difficulty in finding specialists capable of measuring the levels of underground silicon in the mines, Cadem presented long reports from engineers praising the working conditions in Butiá and Ratos mines. 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 1920s 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 1942 and 1943, 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. The age of the ill miners varied from 25 (José Nesbada Filho, 12 years work in the mines, suffering from anthracosilicosis) to 72 years old (Cândido José de Moura, 30 work in the mines, also suffering from anthracosilicosis). 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.²¹

In their court testimonies, which would only occur in 1946 due to the imbroglio with the specialists, the plaintiffs reported having felt sick or having been diagnosed with lung diseases. Venâncio Marques, for example, had worked for seven years and a half with CEFMSJ before being fired in 1943. Before leaving the mines he was prohibited by the doctors from returning underground. Paulo de Oliveira, in turn, had been 18 years in CEFMSJ, he was an *arrechedador* (he took the empty coal cars from the 'cage,' the elevator which brought them to the surface) and said that he had fallen sick with rheumatic pains. He reported that sometimes he had worked in water up to his knees. Tarquínio de Oliveira, who was retired and who had lasted 14 years underground, suffered from breathing problems and rheumatism. 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: the dust that came from the stone when coal was extracted, which contained substances that were noxious to humans:

there was always dust in their workplace; the intensity of the dust depended on the gallery ventilation; in turn, this ventilation depended on a greater or lesser number of *travessões* (ducts), shafts which link the real shafts, which are the principal shafts; sometimes, due to construction problems, the ventilation is badly done; the movement of the coal cars produces dust; depending on the

shaft there can be humidity; when the *tocador* works in a shaft where coal is extracted there is always smoke...²²

Some of the miners admitted that Cadem provided masks to them, but these were sold at a price of Cr\$95.00 (for the effects of comparison, the monthly rental of a house from the Consortium cost Cr\$ 27.50)²³ and could not always be used, due to the characteristics of the service.

The testimony of the expert Cláudio Vieira de Pontes Correa left the case inconclusive. He declared that he believed it was ‘impossible’ to determine whether work in a mine was healthy, restricting his testimony to some places of work, so it “was impossible to classify how healthy the São Jerônimo mines were.” He observed “that if it was found possible in the work environment for the worker to acquire silicosis, then the maximum level of unhealthiness had to be declared,” but emphasized that the São Jerônimo mines were the best equipped that he knew in relation to hygiene and work safety. 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.”²⁴

The final arguments were presented by the lawyer Antonio Domingues Pinto, who had taken responsibility for all the lawsuits linked to the union since 1946. His argument had a different tone from what had been presented by the Union in 1943 and 1944, 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 Labor Court and the organs of the Ministry of Labor... Since the beginning this lawsuit has been tumultuous, full of setbacks, sophistry and absurdities, with the consolation being, when there are more criteria, governmental decisions; where the deserved justice is done in recognizing silica in coal mines, and thus their unhealthiness, it will be seen that the miners’ union, for the good of all the workers, did everything, tried everything, fought for everything, for the good of this collectivity which demands from them their labor until their vitality has been exhausted.²⁵

This conclusion highlights the real nature of the lawsuit, beyond the legal formalisms; it was not an actual individual *complaint* of nine miners represented by the Union, but rather an action by this entity for the entire mining ‘collectivity,’ presented formally (and deceptively) as an individual *complaint*. 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 strategy were clearly perceived by Cadem’s lawyer, who highlighted that “intending to achieve, *in a simple individual complaint*, a wage increase due to unhealthy condition, before this was classified by the competent authority, is inverting the order of things and giving motive to the incongruences we seen in the records.”²⁶

The case was finally judged inadmissible by the Board of Reconciliation and Judgment (*Junta de Conciliação e Julgamento* – JCJ) of São Jerônimo in March 1947, and the workers were condemned to pay costs and for the work of the experts. In his judgment Judge Barata e Silva responded to Pinto’s criticisms, attributed the delay in the process to the fact that it had been “badly proposed, badly received and permanently disturbed by both parties,” with it not being just “that it would still be for more time deceiving the heroic collectivity of miners, with the hope of obtaining improved wages as a result of a right that in essence did not exist.”²⁷ The Union appealed to the TRT and the TST, but unsuccessfully. The final decision was given in January 1948.

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 – because the truculent imprisonments for desertion were reported with great emphasis and drama by the newspapers in 1943. “The persecution of workers by the consortium which disrespects labor laws culminated with an inhumane act verifying the series of brutalities which already proven, even by public agents, in the painful services of exploitation of below the earth in Rio Grande do Sul,” stated the Rio de Janeiro evening paper *A Notícia* on its first page, with the report also being published in *Correio do Povo*.²⁸

In the judgments of the particular cases by the regional military court, the absurdity of the situation was obvious. Workers even presented medical certificates to prove that they were not deserters, or more prosaic explanations,

some bordering on the nonsensical. Lourival Ferreira Batista, for example, alleged that he had been absent from work because as a recent employee he only received a wage of Cr\$27.00 in his first month and did not have the money to buy a “lantern at the cost of Cr\$65.00,” a condition which his “boss had imposed on him” to work. Lourival was sent to the *Casa de Correção* (jail) on 2 March 1944.²⁹

In another case, the *tocador* Carlos Boaro, arrested on 16 January 1944 (tried and absolved on 28 March), stated when he was arrested that he was sick and that he had presented the company with a medical certificate giving him 90 days of medical leave. The disproportion between the punishment and the supposed absences were obvious: Izaltino Pereira da Silva, aged 33, spent three months in the *Casa de Correção* after missing work for two days in September 1943.³⁰

In the sentence referring to Astrogildo Ferraz, arrested in August 1943 and only released in April 1944, the military judges, apparently irritated with the repetition of cases, explicitly stated that “the workers of Cadem who abandon the service could not be considered deserters for the effects of legal process and judgment in the military court” and that the company could not indict the absentees as deserters because there was no presidential act which considered “the mines to be of military interest.” Even the prosecutor put into the records “considerations to highlight the arbitrary form in which Cadem has been acting.”³¹ In May 1944 the Union obtained the granting of a preventative *habeas corpus* from the Supreme Military Court, more than nine months after the arrests started.

The certificates with the judgments absolving the miners in the Military Court were annexed to a lawsuit taken in 1945 in which the Union, representing seven miners who had been detained between 1943 and 1944, demanding their readmission as miners and compensation. Two years after the lawsuit about unhealthy condition the strategy was the same: using individual *complaints* to obtain the enforcement of a right which could have benefitted a large part of the category.

The *complaint* for compensation was filed with the Board of Labor of Porto Alegre in January 1945, from where it was transferred to São Jerônimo and rejected by Judge Theodoro Appel, due to the non-appearance of the plaintiffs at the hearing. They proved later that they had not been notified, but the courts decided not to overturn the decision. Only one of the plaintiffs, the worker Venâncio Marques, received his compensation. Marques, who was also among the nine miners who had entered with the lawsuit of unhealthiness in

1943, filed a new *complaint*³² in February 1946, in the recently opened Board of Labor of São Jerônimo.

In the first hearing on 9 May, Marques alleged that he presented himself to work in September 1943 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. In the court's decision it was concluded that Marques "was effectively prevented from working... at the guilt of the company," and that the act corresponded to the "pure and simple dismissal of the employee and more than anything unjust," granting the compensation for dismissal and *aviso-prévio* (dismissal notice), with a total of Cr\$2.400,00. 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 1947.

FINAL CONSIDERATIONS

The worsening of the conflicts between miners and mining companies in Rio Grande do Sul in 1943 is related to the defense of the enforcement of the 'social laws' for workers, in counterpoint to the suspension of the various rights following Brazil's entering the Second World War and the ineffectiveness of governmental action to inspect compliance with the legislation. At the beginning of the 1940s, the miners' union clearly opted for a strategy of judicial and political confrontation with employers, hiring lawyers, publicizing the working conditions and taking law cases aimed at guaranteeing rights for the entire category. This was done in contrast with Cadem's intense propaganda about its 'social assistance' policy in mining towns.

The discourse of the apparent trust and support for the Vargas government, and the jubilation and praise for the establishment of the Labor Court, in which the words 'granted' and 'guardianship' appeared frequently, was associated with a demand for the enactment of social legislation and the active use of judicial and legal instruments. This evidence contrasted with the previously dominant idea in the Brazilian social sciences of the complete control of government over labor relations in Brazil during the *Estado Novo*, fed by the dictatorship's repression of the 'authentic' leaders, in the discourse and practices of the 'yellow' trade union activists or 'scabs' in support of the government.³³ The experiences of the coal miners and their attempt to guarantee the compliance of rights in the legal sphere indicates that the 'gift' or the 'grant' had been transformed into an assumed object demanded by workers.

After 1943 appeals to the recently created Labor Court became ever more frequent among miners. 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 experience 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 industries 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 understanding this mixture of apparently paradoxical discourses and actions of workers in relation to the application of justice in labor relations, especially from the 1940s onwards.

NOTES

¹ In most of this article I will use the simplified form ‘miners union.’ The text is a modified version of part of Chapter 2 of my dissertation, *Cavando direitos: as leis trabalhistas e os conflitos entre trabalhadores e patrões nas minas do Rio Grande do Sul nos anos 40 e 50*, defended in April 2012 in the Post-Graduate Program of History in Universidade Federal do Rio Grande do Sul (UFRGS), with a Capes grant.

² PAOLI, Maria Celia. *Labor, Law and the State in Brazil: 1930-1950*. Doctoral Dissertation in History, Birbeck College, University of London. London, 1988. p.301-302.

³ Portaria 43, do Gabinete do Coordenador de Mobilização Econômica. *Diário Oficial da União*, 11 mar. 1943, seção 1, p.9 and 10.

⁴ Especially THOMPSON, Edward P. *Senhores e caçadores*. Rio de Janeiro: Paz e Terra, 1987.

⁵ In this perspective, we can mention as an example works such as FRENCH, John. *Afogados em leis*. São Paulo: Fundação Perseu Abramo, 2002; LARA, Silvia; MENDONÇA, Joseli (Org.). *Direitos e justiça no Brasil*. Campinas (SP): Ed. Unicamp, 2006; FORTES, Alexandre et al. (Org.). *Na luta por direitos: estudos recentes em história social do trabalho*. Campinas (SP): Ed. Unicamp, 1999; FORTES, Alexandre. *Nós do Quarto Distrito: a classe trabalhadora porto-alegrense e a era Vargas*. Caxias do Sul: Educ; Rio de Janeiro: Garamond, 2004 (Coleção Anpuh/RS); SILVA, Fernando T. *Os operários sem patrões: os trabalhadores da*

cidade de Santos no entreguerras. Campinas (SP): Unicamp, 2003; SILVA, Fernando T. *A carga e a culpa: os operários das Docas de Santos – direitos e cultura de solidariedade 1937-1968*. São Paulo: Hucitec; Santos: Prefeitura Municipal de Santos, 1995; CORREA, Larissa. *A tessitura dos direitos: patrões e empregados na Justiça do Trabalho, 1953-1964*. São Paulo: LTR; Fapesp, 2011; SOUZA, Samuel Fernando de. *Coagidos ou subornados: trabalhadores, sindicatos, Estado e leis do trabalho nos anos 1930*. Doctoral Dissertation in History – Instituto de Filosofia e Ciências Humanas, Unicamp. Campinas (SP), 2007; SOUZA, Edinaldo Antonio Oliveira. *Lei e costume: experiências de trabalhadores na Justiça do Trabalho (Recôncavo Sul, Bahia, 1940-1960)*. Masters Thesis in History – Universidade Federal da Bahia. Salvador, 2008.

⁶ TREMPÉ, Rolande. Les caractéristiques du syndicalisme minier français et son apport au mouvement ouvrier français. *Halifax*, v.16, n.1, 1981, p.144-154 ; DENNIS, Norman; HENRIQUES, Fernando; SLAUGHTER, Clifford. *Coal is our life*. London: Tavistock Publ., 1956.

⁷ PERROT, Michelle. *Jeunesse de la greve (France, 1871-1890)*. Paris: Éditions du Seuil, 1984. p.179.

⁸ KLUBOCK, Thomas. *Contested communities: class, gender, and politics in Chile's El Teniente copper mine, 1904-1948*. Durham: Duke University Press, 1998. p.6.

⁹ Balance of 1943 of Companhia Carbonífera Minas do Butiá. *Diário Oficial da União*, 20 abr. 1944, p.66, seção 1.

¹⁰ SILVA, Cristina Ennes da. *Nas profundezas da terra: um estudo sobre a região carbonífera do Rio Grande do Sul*. Doctoral Dissertation in History – PUCRS. Porto Alegre, 2007. p.181.

¹¹ DISPOSIÇÕES da Consolidação das Leis do Trabalho que afetarão a mineração do Brasil. *Diário de Notícias*, 20 set. 1943.

¹² A JUSTIÇA não desampará a causa dos humildes mineiros. *Correio do Povo*, Porto Alegre, 20 nov. 1943, p.10; O CADEM despediu, sem indenização, 300 mineiros. *Correio do Povo*, Porto Alegre, 12 nov. 1943, p.8. DIREITOS Humanos aos mineiros. *Correio do Povo*, Porto Alegre, 17 nov. 1943, p.8.

¹³ REALIZAÇÕES do Sindicato dos Trabalhadores na Indústria da Extração do Carvão de Minas de São Jerônimo. *Correio do Povo*. s.d. (fins de 1943). Livro de recortes. Acervo do Museu Estadual do Carvão.

¹⁴ The text of journalistic report referred to in the previous note stated that the leaders of the organization had approved a vote of praise in favor of Norival Paranaguá de Andrade, then head of the Regional Bureau of Labor (DRT).

¹⁵ A SAUDAÇÃO dos mineiros do Cadem ao Interventor Federal. *Correio do Povo*, Porto Alegre, 25 jun. 1944, p.3.

¹⁶ MENOSPREZO à legislação trabalhista. *A Noite*, 11 jun. 1944. Matéria jornalística arquivada no acervo histórico do Museu Estadual do Carvão.

¹⁷ FRENCH, John. *O ABC dos operários*. São Paulo: Hucitec; São Caetano do Sul (SP): Prefeitura Municipal, 1995. p.78.

¹⁸ Carta ao coordenador de Mobilização Econômica In: DISSÍDIO COLETIVO – Sindicato dos Trabalhadores na Indústria da Extração do Carvão. Porto Alegre: Livraria do Globo, 1943. p.13.

¹⁹ DISSÍDIO..., 1943, p.21-23.

²⁰ However, it was not, as will be demonstrated below. In fact the attribution of unhealthiness to the coal companies of the country only became a reality after the publication of Edict no.1, in January 1960, which regulated the question. See VOLPATO, Terezinha. *A pírta humana: os mineiros de Criciúma*. Florianópolis: UFSC, 1984. p.176.

²¹ Processo 14/46, fls. 103-105, v.2. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul.

²² Depoimento de Rodolfo Liota. Processo 14/46, fls. 273, v.3. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul.

²³ Depoimento do reclamante Antonio Pehl. Processo 14/46, fls. 361, v.4. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul. Included in the value of the rent was the cost of electricity (also paid to the Company) of Cr\$ 7.50. Some miners plaid a lower rent.

²⁴ Depoimento do perito Cláudio Vieira de Pontes Correa. Processo 14/46, fls. 364-365, v.4. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul.

²⁵ Processo 14/46, fls. 385-388, v.5. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul.

²⁶ Processo 14/46, fls. 389, v.5. Grifo meu. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul.

²⁷ Processo 14/46, fls. 458, v.5. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul.

²⁸ O SUPREMO Tribunal Militar concedeu o *habeas-corpus* impetrado em favor dos mineiros de São Jerônimo. *Correio do Povo*, 20 maio 1944, p.2.

²⁹ Processo 09/45, Documento nº 9, Certidão da 1ª Auditoria da 3ª Região Militar, expedida em 5 ago. 1944. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul. The judgment of the worker occurred on 10 March 1944. Lourival was hired on 18 Aug. 1943 with a salary of CR\$ 10.00 per day, and his order of desertion was drafted on 21 Sept. 1943.

³⁰ Processo 09/45, Documentos nº 5 e nº 6, Certidão da 1ª Auditoria da 3ª Região Militar, expedida em 5 ago. 1944. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul.

³¹ Processo 09/45, fls. 20-21, Documento nº 5, Certidão da 1ª Auditoria da 3ª Região Militar, expedida em 5 ago. 1944. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul.

³² Processo 16/46. CD Processos Trabalhistas de São Jerônimo/RS (1938/1947). Coleção Acervos. Memorial da Justiça do Trabalho no Rio Grande do Sul, fls. 33-74.

³³ Examples of this vision can be found in BOITO JR., Armando. *O sindicalismo de Estado no Brasil: uma análise crítica da estrutura sindical*. Campinas (SP): Unicamp, 1991; RODRIGUES, Leôncio M. *Conflito industrial e sindicalismo no Brasil*. São Paulo: Difel, 1966.