

Collective Bargaining and Judicial Resolution Mechanism in Brazil

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Abstract

Apart from most countries in Latin America, Brazil is one of a few countries which is covered comparatively largely by the collective bargaining agreements, greater than suggested by their levels of union density. Together with its distinctive institution that resolves collective labour disputes: the normative power (“Poder normativo da Justiça do Trabalho”) and its judicial extension of the independent judicial courts deserve a highlight. Both at the state and at the national level, labour court enjoys a special power toward disputes by setting down normative rules in addition to the existing regulatory legislations. However, distinguished from others in the region, collective bargaining in Brazil bears great differences, mainly attributed to its own union structures, simply from the bottom structure, unicity principle of organization guarantees the monopoly of the single union over its constituency; while from the top one, political discrepancies pluralises union centres among their affiliations.

Reviewing its evolution, the industrial relations had been shaped by a traditional statutory provisions and unilateral regulations by management until the 1988’s Constitution, and now it has been largely reshaped by a bottom up approach of the collective bargaining practice. Also, the practice of collective bargaining is becoming more and more important in establishing regulations other than those provided by the conventional industrial relations’ legal framework. As an essential aspect of social dialogue, it is enshrined in the comprehensive legislations. All in all, it demonstrates precious references both theoretically and practically. Although industrial actions often occur (such as the annual strike of the banking sector), mature industrial actions have built up the stability of the labour relations in macro terms in Brazil. In particular, the mechanism of collective bargaining as the core content has become the most important means of regulating employment relations and settling labor conflicts. Therefore, this paper aims at depth review of Brazilian judicial system and analysis of bargaining strategies, in dealing with collective labour disputes, and it touches all the points that have mentioned above.

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