

**CLOSE TO THE WORLD, FAR FROM THE CAPITAL:
ACCESS TO JUSTICE AND THE LABOUR JURISDICTION IN THE MUNICIPALITY OF
SÃO JOÃO DE MERITI**

**PERTO DO MUNDO, LONGE DA CAPITAL:
ACESSO À JUSTIÇA E JURISDIÇÃO TRABALHISTA NO MUNICÍPIO DE SÃO JOÃO
DE MERITI**

**CERCA DEL MUNDO, LEJOS DE LA CAPITAL:
ACCESO A LA JUSTICIA Y JURISDICCION LABORAL EN EL MUNICIPIO DE SÃO
JOÃO DE MERITI**

**PRÈS DU MONDE, LOIN DE LA CAPITALE :
ACCÈS À LA JUSTICE ET JURIDICTION PRUD'HOMALE DANS LA COMMUNE DE
SÃO JOÃO DE MERITI**

**靠近世界，远离首府：劳工法的司法和行政在卖力提市的民众享有程度
(MUNICÍPIO DE SÃO JOÃO DE MERITI)**

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ABSTRACT

Close to the world, far from the capital: this is the paradox we are confronted with when considering access to justice in the Baixada Fluminense region of the state of Rio de Janeiro. This is a region in which physical proximity plays a minor role and in which the appropriation of law by local actors is assumed within the very contours of this troubled universe. Installed almost 35 years ago in São João de Meriti, the Labour Court offers a fascinating glimpse into the experience of access to justice in the district. We attempted to

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trace the history of the court with the aim of safeguarding local memory, by means of interviews, the analysis of documents and an iconographic survey. We also sought to rescue the district's quantitative data in order to facilitate a truer understanding of its legal workings. An analysis of local dynamics contributed to opening up a new approach on the subject of access to justice, in an area characterised by latent conflict and violence.

Key words: Access to justice, the labour court, legal professions, the informal economy.

RESUMO

Perto do mundo, longe da Capital. Pensar em acesso à Justiça na Baixada Fluminense exige enfrentar este paradoxo, no qual a proximidade física pouco significa e a apropriação do direito pelos atores locais é efetuada dentro de contornos próprios a esse universo conturbado. Instalada há quase trinta e cinco anos em São João de Meriti, a Justiça do Trabalho revela-se uma alavanca interessante para se apreender as experiências de acesso à Justiça presentes na comarca. Assim, efetuou-se a recuperação de sua trajetória, com o propósito de salvaguardar a memória local – por meio de entrevistas, análise de documentos e levantamento iconográfico – bem como se buscou resgatar os dados quantitativos da comarca, de forma a possibilitar uma real compreensão de sua movimentação judicial. A análise das dinâmicas locais contribuiu para a abertura de uma nova abordagem na temática do acesso à Justiça, em um cenário de conflito e violência latente.

Palavras-chave: Acesso à justiça, Justiça do Trabalho, profissões jurídicas, trabalho informal.

RESUMEN

Cerca del mundo, lejos de la Capital. Pensar en acceso a la Justicia en la Baixada Fluminense exige enfrentar esta paradoja en la cual la proximidad física poco significa y el acercamiento del derecho por los actores sociales es efectuado dentro de los contornos propios a ese universo conturbado. Instalada hace casi treinta y cinco años en São João de Meriti, la Justicia del Trabajo se revela una palanca interesante para la aprehensión de las experiencias de acceso a la Justicia presentes en la Comarca. Así, se ha efectuado la recuperación de su trayectoria, con el propósito de salvaguardar la memoria local – por medio de entrevistas, análisis de documentos y levantamiento iconográfico – así como se ha buscado rescatar los datos cuantitativos de la Comarca, de manera a possibilitar una real comprensión de su movimiento judicial. El análisis de las dinámicas sociales ha

contribuido para la apertura de un nuevo abordaje en la temática del acceso a la Justicia, en un escenario de conflicto y violencia latentes.

Palabras clave: Acceso a la justicia, Justicia del Trabajo, profesiones jurídicas, trabajo informal.

RÉSUMÉ

Près du monde, loin de la capitale. Analyser l'accès à la justice dans la Baixada Fluminense (région périphérique de la ville de Rio de Janeiro) exige d'affronter ce paradoxe au sein duquel la proximité physique ne signifie pas grand-chose et où l'appropriation du droit par les acteurs locaux s'effectue selon des modalités propres à cet univers perturbé. Installée depuis presque 35 ans à São João de Meriti, la justice prud'homale s'est révélée être un contexte intéressant pour appréhender les expériences d'accès à la justice au sein du district. Nous avons ainsi analysé sa trajectoire dans le but de préserver la mémoire locale, au moyen d'entrevues, d'analyses de documents et de relevés iconographiques. Nous avons également cherché à regrouper les données quantitatives de la juridiction de façon à permettre une réelle compréhension de la dynamique judiciaire locale. Cette analyse des dynamiques locales a contribué à la mise en œuvre d'une nouvelle approche de la thématique de l'accès à la justice dans un contexte de conflits et de violence latents.

Mots-clés: Accès à la justice, Justice prud'homale, Professions juridiques, Travail informel.

提要

靠近世界，远离首府：如果考察劳工法司法服务在里约州的民众享有程度，人们就会碰到这样的悖论：虽然很靠近州首府城市里约热内卢，但里约周边城市的民众对劳工法司法提供的服务的享有程度远远不如里约州的首府。卖力提市的劳工法司法机关已经成立35年了，但民众的享有程度与首府城市的民众享有程度相比还是很小。本论文回顾了卖力提劳工法庭成立的过程，采访了许多重要的当事人，分析研究了很多资料，图片，数据，结合当地的劳资纠纷和暴力冲突，劳动法的司法和执法状况，提出一些关于研究劳工司法服务的民众享有程度新的方法。

关键词：享有程度，劳工司法，司法界职业人士，非正式就业。

Between the two sides runs the interstate motorway, and to its side is the express lane. All around lie pockets of misery. This is a sleeper city, attached to the international airport. It is both close to the world and far from the capital. Between Rio de Janeiro's south zone and the Labour Court in the neighbourhood of Vilar dos Teles in the municipality of São João de Meriti, there are no more than a dozen traffic lights. It does not take long to arrive to these parts. On leaving the Presidente Dutra highway, countless local municipal guards start to appear, almost always with their arms crossed or their hands on their hips. Apparently distracted (or deep in concentration), they direct the traffic alongside the used-car showrooms on Avenida Automóvel Club. A little further on from the headquarters of the 21st Military Police Battalion on the crest of a small hill, is the São João de Meriti Labour Court. There are three courts, to have been inaugurated on 19 September 1978, 11 June 1992 and 19 December 2012, respectively¹. As the first court has existed for almost 35 years and the second for just over 20 years, there is undoubtedly a rich history ripe for the telling. And it was exactly with this aim that we, between 2007 and 2009, delved into the São João de Meriti Labour Court, researching statistical data, experiencing the everyday rule of the law in the district and carrying out interviews with local legal agents, constantly striving to trace the history of the labour jurisdiction from the perspective of the subject of "access to justice".²

This text presents the results of this endeavour, without any intention of exhausting the subject. Instead, it depicts circumstances, develops interpretations and makes

¹ The installation of the 3rd São João de Meriti Labour Court (3ª VT/SJM) took place on the last working day of the last legal year, along with all of the district's units by means of a digital process. Cf. Tribunal Regional do Trabalho da Primeira Região (TRT-RJ), "São João de Meriti ganha nova VT já com o PJe-JT", available from: <http://www.trt1.jus.br/web/guest/materia-completa?nID=4280922>. Accessed on: 22 Jan. 2013.

² The research project entitled "Perto do mundo, longe da Capital: acesso à Justiça e jurisdição trabalhista no município de São João de Meriti" [Close to the World, Far from the Capital: Access to Justice and the Labour Jurisdiction in the Municipality of São João de Meriti], developed within the Research Nucleus on Legal Practices and Institutions (NUPIJ), linked to the Sociology and Law Post-Graduate Programme (PPGSD) at Fluminense Federal University (UFF), which received the institutional support of the National Council for Scientific and Technological Development (CNPq) by means of Request no. 50/2006 (Human, Social and Applied Social Sciences). It also received two grants for undergraduate research, one from the CNPq itself and another from the Rio de Janeiro State Research Support Foundation (FAPERJ). The study team was composed of professors: Roberto Fragale Filho (coordinator) and Ronaldo Joaquim da Silveira Lobão and undergraduates: Laís Moura Simões (FAPERJ scholarship student), Luiza Felix de Souza Barçante (CNPq scholarship student), Mariana Oliveira Neves and Thiago Sanandres. No doubt should remain over the nature of this text: it is a condensed and modified version of the final report presented to the CNPq, however, there is a distinct conflict of interests provided by the fact that I have been the Chief Judge of 1ª VT/SJM since 16 February 2004.

suggestions for possible future lines of investigation.³ Its conclusion is therefore precarious, and should be considered as an invitation for future potential developments in the form of a wide investigative project on labour jurisdictional activity in São João de Meriti. The essay is divided into three parts. The first presents objective data on the investigation and some brief methodological questions, as well as a description of activities carried out along its undertaking. The second part presents a succinct revision of the relevant literature on the subject. The third part provides an analysis of the corpus, identifying various lines of investigation opened up by the exploratory work carried out on São João de Meriti.

1. The Circumstances

After a period dedicated to the bibliographic survey on the object of study, the field work was carried out between August and September of 2008, with total immersion in the labour jurisdiction of São João de Meriti. The current labour court was visited at Avenida Dr. Celso José de Carvalho, s/nº, in the neighbourhood of Parque Barão do Rio Branco, where an intensive ethnographic study was undertaken on the courtrooms of the district's two existing labour courts. It is worth mentioning, however, that data collection did not come without its difficulties. Three methodological strategies were to be used in the study: (a) document analysis, (b) oral testimonies and (c) the observation of practices. While the field work facilitated non-participant observation of the practices examined in the district, it also proved the difficulty of collecting oral testimonies.

The project was originally to include 18 interviews,⁴ of which seven would be with magistrates and eleven with lawyers, the latter of which including five with those classed as 'first generation' and six with those of 'second generation'. This proved impossible however, as the group of magistrates revealed itself to be particularly reluctant to concede interviews. In fact, despite countless requests, none of the active magistrates – Rogério Lucas Martins, José Antonio Teixeira da Silva and Valmir Araújo de Carvalho (currently all judges at the Rio de Janeiro Regional Labour Court (TRT-RJ)) and Oswaldo Henrique

³ After lying dormant for a period of some years, the study was taken up as a Master's dissertation as part of the PPGSD by student Luiza Félix de Souza Barçante in July 2012, now under the teaching of Professor Pedro Heitor Barros Geraldo.

⁴ It must be stated that none of the interview requests or the interviews themselves were undertaken by the coordinator due to the implicit conflict of interests. They were thus undertaken by the four undergraduate students involved in the project.

Pereira Mesquita (currently Chief Judge of Araruama Labour Court) – responded.⁵ Circumstances also prevented the realisation of interviews with the three former magistrates as Maria de Lourdes Vanderlei e Souza has resided in Vitória since the creation of the Espírito Santo Regional Labour Court (TRT-ES), Tércio Pinto Rubim retired over 10 years ago, and Afrânio Peixoto Alves dos Santos died in 2007.

The response from the lawyers, was, however, mostly positive, allowing us to hold five of the 11 interviews. Of the interviews with first-generation lawyers, the only one we were unable to hold was with José Henrique de Lemos Portella (Brazilian Bar Association (OAB) 4.490), as the other four lawyers - Celso Foli (OAB 19.027), Rita de Cássia Chehuan de Barros Silva (OAB 42.310), Emerson Correa da Silva (OAB 43.739) and Moisés Menezes de Amorim (OAB 60.734) were successfully interviewed. Among those of the second generation, however, it was only possible to carry out one interview, with Viviane L. Amorim (OAB 128.438). Despite our efforts, the other lawyers did not have time for an interview or were impossible to locate. It must therefore be stated that the process of interviewing second-generation magistrates and lawyers was rather unfruitful, whether due to the reluctance observed among the former group (probably linked to the reserve the profession requires), or the lack of time the latter had available (possibly due to the efforts required at the beginning of the career).

The documents provided similar problems. Although no difficulties were encountered in the undertaking of the bibliographic survey on the subject of access to justice, it proved almost impossible to carry out the iconographic survey on the district. In fact, none of the lawyers interviewed had any photographs of past events, and nothing was found in the Rio de Janeiro Regional Labour Court (TRT-RJ) archives. The iconographic memory of the labour jurisdiction of São João de Meriti is particularly recent, and it may be unequivocally affirmed to be limited to the past eight years. For this reason, there was not much point in speaking of “recovering” it, but rather of “preserving” it. Consisting almost wholly of digital images, its preservation is particularly important in terms of two separate institutional events undergone by the district: (a) the inauguration of the labour court on Avenida Dr. Celso José de Carvalho, s/nº, in the neighbourhood of Parque Barão do Rio Branco, and (b) the ceremony issuing the ISO-9000 quality certification to the 1st São João de Meriti Labour Court (1^a VT/SJM). Finally, regarding quantitative data, we were able to obtain a

⁵ It must be highlighted that Rogério Lucas Martins responded to the first contact made and agreed to an interview, but then did not respond to the attempts made to contact him by means of telephone and email.

copy of the statistical maps for the trials in the district throughout practically all of its independent existence, since 1978.

In short, the bibliography was examined, statistical data was systemised (although with great difficulty due to the absence of uniform and perennial records), the slim and recent iconographic memory was preserved and some interviews were held, providing the gathering together of a wealth of material which formed the source of the analyses developed in this essay. A final observation on the validity of the corpus gathered is worth recording. We have not ignored the dilemmas emerging from the ideal number of interviews and the constitution of the representative universe of those interviewed. However, reference might be made in the project to what may be referred to as the “principle of sufficiency”, to the extent to which, at an unknown point in the process, a degree of saturation would be reached which would in turn invalidate the need for the prior definition of a “quantum” of interviews to be held, and so it is suggested that the results presented here should be considered with caution and therefore as firm clues for future investigation. With this, we aim to eliminate any eventual criticisms of an insufficiency in the corpus gathered, recognising that it should be examined with prudence and caution. In other words, although it is undeniable that the work offers a wealth of information and suggests interesting potential lines of investigation, the ambitious nature of the result and the precariousness of the demonstration must be highlighted, with the analysis termed as an invitation for an extension into the work investigated.

2. Revisiting Literature on the Subject

Since the publication of Mauro Cappelletti and Bryant Garth’s seminal work⁶, a wealth of literature has developed taking as a point of departure the three-wave argument, whose presence in the countries studied by the pair was constituted “in what was basically a chronological sequence”. As of 1965, therefore, initial studies focused on legal assistance for the poor; then on reforms which tended to provide legal representation for various interests; and finally, on the emergence of a wider conception of access to justice.

⁶ Cappelletti, Mauro; Garth, Bryant (1978). *Access to Justice: the worldwide movement to make rights effective. A general report*, Milan: Dott. A. Giuffrè.

This reading was developed by Kim Economides⁷, in distinguishing between the subject's methodological and epistemological features. For the former, he observes the development of the two research traditions: one focused on the study of "unfulfilled legal needs" and another on "knowledge of and opinions on justice" In other words, the first tradition focuses on a mapping of demands, while the second concentrates on citizens' perceptions and attitudes, and in turn, on the users of the justice system. Regarding the epistemological features, Economides suggests that the works developed take as a central problem a questioning of the content of justice, asking whether the mechanisms studied promote "access to justice" or "access to peace". Inquiry is key to the writer's emphasis on the hypothesis of the emergence of a fourth wave, whose characteristics are centred on access to legal information and to the role to be performed by the legal professions.

In spite of this methodological and epistemological endeavour, works on access to justice developed in Brazil remain focused on the aforementioned initial tradition, and may be categorised according to four distinct axes:

- ✓ "Innovative" experiences whose focus consists of describing and analysing successful experiences at the courts with the aim of increasing access to justice. An interesting example of this is the book entitled "Casos de sucesso: acesso à justiça" [Success Stories: Access to Justice]⁸, collected by Ana Paula Rocha do Bonfim, Renata Barbosa de Araújo Duarte and Jeane Rocha Duarte, examining the cases of the "Balcão de Justiça e Cidadania" [Justice and Citizenship Bureau] in the state of Bahia and the "Expressinho" [Fast Track], in Rio de Janeiro, among others.
- ✓ "Borderline" cases which examine situations and proposed solutions in ambiguous circumstances, in which the demand seeks institutional paths in order to "flourish". The text "Direito na fronteira ou fronteira do direito: experiências de projetos do programa nacional Balcões de Direito" [Law on the Border or Borderline Law: Experiences of Projects Under the National Law Bureaus Programme] by Alexandre Veronese⁹ is an excellent archetype of this approach.
- ✓ The history of the "special courts" which approaches the experiences of different special courts and their potential to promote access to justice, and, as a

⁷ Economides, Kim (1999). "Lendo as ondas do 'Movimento de Acesso à Justiça': epistemologia versus metodologia?". In Pandolfi, Dulce Chaves; Carvalho, José Murilo de; Carneiro, Leandro Piquet; and Grynszpan, Mario (1999). *Cidadania, justiça e violência*, Rio de Janeiro: FGV, p. 61-76.

⁸ Bonfim, Ana Paula Rocha do; Duarte, Renata Barbosa de Araújo; Duarte, Jeane Rocha (2006). *Casos de sucesso: acesso à justiça*, Brasília: CACB, CBMAE e SEBRAE.

⁹ Veronese, Alexandre (2003). "Direito na fronteira ou fronteira do direito: experiências de projetos do programa nacional Balcões de Direito". In *Cadernos Adenauer (O terceiro poder em crise: impasses e saídas)* (2002), v. 3, n. 6, São Paulo: Fundação Konrad Adenauer.

consequence, its impact on the spheres of citizenship and democracy. Without doubt, the paradigmatic example of this perspective is the work developed by Luiz Werneck Vianna, Maria Alice Rezende de Carvalho, Manuel Palácios Cunha Melo and Marcelo Baumann Burgos¹⁰.

- ✓ The role of the “Public Defender” who examines the offer of free legal services, paying particular attention to public defence. Here, we would like to highlight the work of Maria Aparecida Lucca Caovilla¹¹ and Cléber Francisco Alves¹².

This disperse bibliography was the object of extensive reading and provided a reasonable methodological wealth with the use of different strategies to reflect on access to justice, despite the fact that it is possible to distinguish between the approaches undertaken by the legal field and those by other fields such as anthropology, political science and sociology. In fact, work originating in the legal field is essentially prescriptive and constructed based on an ideal representative of reality, which, at heart, assumes the existence of effective access to justice as a “natural” consequence of its simple inscription in the law and the regulation of the offer of specialised legal services, such as the case of the Public Defender. Works in other fields, in turn, are constructed based on a de-codification of reality and thus employ strategies which are as disparate as participatory and reflexive observation or statistical surveys.

Between these two perspectives for entering the field, the examination of the real has undoubtedly been privileged, by means of the entry into a field permitting the collection of data examined in this essay. Or, in other words, it has opted to “consider” the labour jurisdiction of São João de Meriti based on the experiences and perceptions of some of its users (which requires the recognition that it would be undeniably enriched by the integration of other “voices” in the corpus, such as, for example, those of trade unions and parties) rather than due to the prescriptive circumstances which govern the actions of said users.

Rather than repudiating the national bibliography, we sought to go further by incorporating the hypothesis of the fourth wave mentioned by Economides into a legal

¹⁰ Vianna, Luiz Werneck; Carvalho, Maria Alice Rezende de; Melo, Manuel Palácios Cunha; Burgos, Marcelo Baumann (1999). *A judicialização da política e das relações sociais no Brasil*, Rio de Janeiro: Revan.

¹¹ Caovilla, Maria Aparecida Lucca (2003). *Acesso à justiça e cidadania*, Chapecó: Argos.

¹² Alves, Cleber Francisco (2006). *Justiça para todos! Assistência jurídica gratuita nos Estados Unidos, na França e no Brasil*, Rio de Janeiro: Lumen Júris.

Alves, Cleber Francisco; Pimenta, Marília Gonçalves (2004). *Acesso à Justiça em Preto e Branco: retratos institucionais da Defensoria Pública*, Rio de Janeiro: Lumen Júris.

space which is not guided by a context of innovation or a borderline, nor inserted in a reality of special courts or public defence.

3. An Analysis of the Corpus

The labour jurisdiction of São João de Meriti was created by Law no 6,563, of 19 September 1978, by means of split from the district of Duque de Caxias. Almost immediately after its installation, it became responsible for reconciling and judging individual labour disputes in the municipalities of São João de Meriti and Nilópolis. A little after a decade later, with the enactment of Law no. 7,729 of 16 January 1989, came another jurisdictional division, this time with the creation of the Nilópolis Conciliation and Trial Commission, installed in September 1991. Finally, by means of Law no. 8,432, of 11 June 1992, the 2nd São João de Meriti Conciliation and Trial Commission was created. It was only with Constitutional Amendment no. 24, of 09 December 1999, and the extinction of class representation, that the former commissions came to be known as labour courts.

This history was vividly recounted in the interviews carried out, allowing us to identify some important features of the labour jurisdiction of São João de Meriti. Without representing an exhaustion of the analytical possibilities extracted from the collective testimonies, it is possible to perceive some relevant features which may be assumed here as analytical axes of the corpus surveyed. They are as follows: the impact of the company named Sendas S/A, the erratic (and precarious) history of the localisation of legal services, the impact of professionalization and the ideological character of the Labour Court.¹³ Each of these four axes is dealt with individually below.

a) The Influence of Sendas S/A

The history of the labour jurisdiction in São João de Meriti is profoundly marked by the expansion of the company Sendas S/A, whose origins date back to the small Armazém Trasmontano deposit founded by Manoel Antônio Sendas at the beginning of the 1920s. Rita de Cássia Chehuan de Barros Silva recalls the importance of the traditional families in

¹³ The final report on the study was to include a fifth axis of analysis focused on statistical precariousness, based on the documents gathered. However, as we believed the data to be delicate and requiring an empirical effort we had not yet undertaken, we decided to exclude it from this essay, leaving its analysis for a future date.

São João de Meriti and the social network constructed around the trade which involved her grandparents and the first generation of the Sendas family:

That's the way São João [de Meriti] is, it was really tiny... So my grandparents were retailers, in front of the station. So everyone that arrived in São João... not here in the centre, it was in São Mateus, that the hub was... So, everyone used to go through my grandfather's stock and through the Sendas market.

This is where Sendas began, growing from a small market in the neighbourhood of São Mateus to one of Brazil's largest supermarket chains, employing over 6,000 people, without ever cutting the original ties established with the municipality of São João de Meriti. As Arthur Antonio Sendas himself came to recognise¹⁴, *"it really helped my dad to make Sendas what it is today, (as) the supermarket has a very important basis: one family's principles"*.

Almost all of those interviewed had some kind of link with the company. Rita de Cássia Chehuan de Barros Silva went to work for Sendas before completing her course at the Brazilian Faculty of Legal Science in the centre of Rio de Janeiro. Her recollection of becoming a company employee is particularly interesting:

The opportunity came up... It's true that my parents knew the owners, but it wasn't through a request of theirs. Actually, my brothers were working in the personnel department, even with Emerson himself... And then they opened the legal department. I was all like... 'I'll go and ask for a job!' And the manager was impressed, saying: 'Women working here..?' Because there were no women at Sendas; just men. I was one of the first to get a job there... Listen, we were... When I went to work at Sendas, there were thousands of men and just 15 of us women.

This primarily suggests an issue of gender exceeding the limits of this text, although undoubtedly providing an important clue for future investigations. It is also possible, despite the interviewee's protests to the contrary, to verify the importance of social networks, whose density facilitates the breaking of barriers between genders that she identifies. Or, in other words, her initiative was corroborated and catalysed by the presence of her brothers in the company.

It was at that point that she would become a colleague of Emerson Correa da Silva, who was studying law at Nova Iguaçu Unified University at the same time as representing Sendas at the Labour Court. Both completed their studies at the beginning of the 1980s

¹⁴ Sendas, Arthur Antonio (2003). *História de vida*. Available from: <<http://www.museudapessoa.net/index.php/historia/5391-historia-de-vida>>. Accessed on: 24 Jan. 2013.

and went on to build a career at Sendas, until the company opted to outsource legal services, breaking up the internal legal department.

Moisés Menezes de Amorim's life has been inextricably linked with Sendas. He joined the company as a "marrequinho", which is the name given to participants in the project of the same name promoting social insertion for young people in low-income households by means of offering them a starter job associated with a training process. So, it was thus in 1970 that Moisés joined the company, still as a boy, to be later made use of in the personnel department. With Sendas' support, he would come to frequent the legal course at Augusto Motta Unified University (SUAM) in Bonsucesso. In 1986, around three years after completing the course, he would join the legal department, where he would remain until 2002, when the company closed the sector in order to outsource it.

Moisés' discomfort with the outsourcing process implemented by Sendas is notable in his testimony, which would indeed facilitate an understanding of the current professional situation observed regarding those leaving the legal department. In fact, when outsourcing first became a reality for the department, it produced a rift within the legal partnership between Moisés and Emerson Correa da Silva parallel to the work at the company. So while Emerson and Rita de Cássia became partners in order to provide outsourced services to Sendas, Moisés built his client base from his ex-employer's former staff members. And herein lies an irony: the break with the only job he had come to know over the course of his life allowed him to use the legal knowledge he had acquired with the backing of his former employer to legally challenge the conduct of the latter towards the other employees, which would mean almost all of his client base. Indeed, the shift observed in his career constitutes an ironic translation of changes occurring in a post-Fordist labour market. In other words, the precarious nature of his post-Fordist universe would transform itself into a possibility for professional development under the logic of an independent legal practice.

The irony is even more acute, considering that as *"Sendas' philosophy was to pay for their staff's studies and those of their staff's children as well"*, Moisés' daughter Viviane L. Amorim was to have her course paid for by the company, so that, upon completion, she would come and work alongside her father and for a clientele suing the very company to have funded their professional career. As she clarified in the interview, all of her secondary education had been funded by Sendas, who also paid for the first half of her law course at Iguaçú University, although funding half of the costs. It was only in her last year of higher education - when her father left the company - that the cost of the studies became a

problem, as he was forced to finance his three daughters' education (two of which studying law) without any backing.

A curious scenario resulted, with Sendas coming to play an important role in the labour jurisdiction of São João de Meriti. As Rita de Cássia Chehuan de Barros Silva highlights, Sendas and São João de Meriti had always been linked, as *"the head office had always been here in São João... As the owners are São João born and bred, they thought that being here would be a way of serving the population, giving local people jobs"*. In light of this principle, the employees which represented the company in the labour jurisdiction advanced in their careers, and, under the impact of changes in the world of work, found themselves on opposite sides of the court room: Emerson and Rita de Cássia, performing outsourced roles, continued to provide services to the company, while Moisés, along with his daughter Viviane, came to represent his former colleagues in lawsuits against their former employer.

Among those interviewed, the only discordant note is provided by Celso Foli, who is from outside the district and came to live in it in 1974, via his brother who was a police inspector working in the municipality. A graduate of a state university, he was initially a something of an "outsider", who ended up establishing himself and "growing" with the jurisdiction itself. Although his career was to take place at the edges of Sendas however, he recognises its influence, stating, *"when it comes to justice, those in charge of the city are Sendas and Flores"*.

b) An Erratic Geographical History

The labour jurisdiction was initially located in the centre of São João de Meriti, at Rua dos Expedicionários, no. 197. Although the place chosen for the installation of the labour court was located in the municipality's commercial district, this did not encourage its integration with the public authorities, as between them was the Presidente Dutra highway. In fact, although all of the public bodies were located in Vilar dos Teles, the Labour Court was originally to be situated on the other side of the interstate motorway, in the central region of the municipality. Although it proved impossible to gather empirical evidence, it may be imagined that the decision was made due to the proximity to the municipality's commercial activities. In this sense, what happened could not have been more ironic, as the instability of the local economy led to the disappearance of the old address. In fact, the original building for the labour jurisdiction became home to a car park for a branch of Itaú

bank, at Rua Gessyr Gonçalves Fontes, no. 87, with further access provided by Rua dos Expedicionários, no. 181.

It was possibly this distancing from the public authorities which led to the labour jurisdiction's swift uprooting to Vilar dos Teles, and more specifically to the building situated on Avenida Presidente Lincoln, no. 553, near to the municipal council. Those interviewed who had experienced this era are however unanimous in recognising the venue's shortcomings. Rita de Cássia Chehuan de Barros Silva mentions the existence of "some problems", while Celso Foli affirms that the "building was falling to bits". However, not even such precarious conditions were enough to prevent the Labour Court from remaining there throughout almost all of the period in which the jurisdiction came to see just one Conciliation and Trial Commission, until the early 1990s.

Created and installed in 1992, the 2nd São João de Meriti Conciliation and Trial Commission required updates in infrastructure at the same time as the Labour Court in the state of Rio de Janeiro experienced a turbulent period with the presidency of Judge José Maria de Mello Porto. The move to the building situated on Rua Humaitá, number 17, have been marked by its transitory nature, particularly because the venue did not function correctly. In fact, by November 1993, the building had already been closed for "*surveys, tests (and/or) planning revisions in order to reduce concerns around the building's stability, (as) excessively deformed beams had been observed, with bending cracks and sheer strain*"¹⁵. Surprisingly, without the prohibition being lifted and the identification of the authority which had permitted its use, it was then re-opened. Such precarious conditions thus did not prevent the Labour Court from remaining there while the structural problems began to mount. The record made in the routine inspection report minutes of September 1995 recounts the problem which would result in near tragedy six years later concisely and reliably:

Soon after, the presiding magistrate addressed the building to house the two courts, the log record and the distributor for the municipality of São João de Meriti, stating that, although it had already been inaugurated, it did not have the necessary conditions to house the bodies, with many services yet to be installed before the completion of works. An inspection of the new building was held, as the current one was no longer suitable, as, apart from the fact that it was situated by a slum, the walls were damp, releasing a strong and unpleasant odour, inconveniencing those who worked there. Efforts would need to be made to finish works on the already inaugurated building, although it was built in an area which was difficult to access, surrounded by slums. It is a very beautiful building, but it is located in an unsuitable area.

¹⁵ Closure Report no. 100/93, by Rio de Janeiro State Public Works Company (EMOP).

The warning was not enough however to break the deadlock, and for almost eight years, the Labour Court remained at Rua Humaitá, number 17. Thus, it was only in September 2001, due to groans heard by those using the building and the gradual growth of cracks in the external walls, that the building would be permanently sealed off by the Civil Defense. A rather tragic state of affairs thus emerged for the labour jurisdiction: although it had two headquarters – one closed off and the other under construction – it was unable to function. Almost two months passed without any legal activity, until the courts were relocated to Rua César Lemos, no. 22, or more exactly, to the “Shopping do Jeans”, which, upon the virtual death of the local textile industry after the implementation of the Collor Plan, was transformed into a kind of citizens’ advice bureau, offering services such as those provided by the Rio de Janeiro State Transport Department (DETRAN-RJ). The Miriam Lippi Pacheco Forum was installed there, in significantly precarious conditions. As Emerson Correa da Silva recalls, the venue was very hot due to the asbestos on the roof. Celso Foli recalls the absence of windows and the lack of a spacious waiting room.

However, none of these difficulties were raised during talks to transfer the Labour Court to its current installations. In fact, users emphasised the ease of access and the availability of services around the forum, which would disappear with the prospect of the move. In the end, the new space planned for the labour jurisdiction, on Avenida Dr. Celso José de Carvalho, s/nº, was behind the 21st Rio de Janeiro Military Police Battalion, at the end of a short but extremely steep hill, inaccessible to heavy vehicles. On the other side, the slope was less steep but much longer and there was no prospect of public transport which would facilitate access for the general public. Known in the local labour law community as the “mirante do reclamante” [complainers’ lookout], the location had become a kind of taboo, and was unanimously rejected before its implantation. The weak opposition drafted by the Brazilian Bar Association (OAB) to the move was no match, however, for the dictates of policies for separate offices which the court was trying to implant. They argued on the one hand for the need to reduce costs with the quashing of the payment of rent, and, on the other hand, for an area of land donated a long time ago by the municipality for the installation of the Labour Court with the skeleton of a building in its initial stages begun in the early 1990s and never finished, according to inspections from 1995 and 1996.

It was thus in November 2005 that the new São João de Meriti labour forum was inaugurated, with the original name of Pizarro Drummond Forum, until the decision made by the National Justice Council (CNJ) via Administrative Control Procedure (PCA) no. 344.

Although suitable and accessible to those with special needs, the forum was quickly revealed to be lacking in basic services: reprographic equipment, a public telephone, drinking fountains, restaurant and public transport. As none of these services were offered, the need arose to negotiate their supply on a singular basis. When this was brought into compliance, an investment was made into the offer of other auxiliary services, with the opening of a branch of Banco do Brasil and a community library administered by the local OAB branch. At the end of this process, more than two decades were needed for the labour jurisdiction to be definitively established with an adequate number of services located around it. One of the lines for investigation would be the impact which banal features – such as proximity to other forensic services and the existence of public transport allowing users to make the journeys necessary – exert on effective and consistent access to justice.

c) The Impact of Professionalization

The presence of the labour jurisdiction in São João de Meriti has undoubtedly catalysed the process of professionalization. At this point, it is necessary to highlight the process for qualifying former users, which, over time, came to assume new roles in the legal sphere. The paradigm here is the career of Emerson Correa da Silva, who originally worked for Sendas, and, who, by climbing the career ladder in a training process sponsored by the company, became its legal counsel. Interestingly, almost 30 years later, according to Celso Foli, a similar career path seems to be forming for representatives of the company named Flores, who was Sendas' main customer. This shift in roles may also be observed with Moisés Menezes de Amorim and his daughter Viviana L. Amorim, despite the fact that the new roles they assumed were significant in terms of fulfilling considerably different roles when compared to those they originally occupied.

Another interesting change is that regarding the offer of training courses made to those interviewed. In fact, the legal sphere seems to be primarily populated by people whose training is undertaken in the few existing public institutions. It was thus for Celso Foli, who studied at the institution formerly known as Guanabara State University (UEG). And it is no different for those studying outside the district, forced to travel huge distances to obtain a diploma, as is shown by the path taken by the former president of the local OAB branch, Luiz Carlos Mascarenhas, who studied in Niterói at Fluminense Federal University (UFF).

The first wave of expansion in higher education required students to travel large distances, as experienced by Rita de Cássia Chehuan de Barros Silva, who was a student at the beginning of the 1980s of the legal course at the Brazilian Faculty of Legal Sciences (SUESC) in the centre of Rio de Janeiro, whose founding dates back to 1953. Maintaining her post as a lecturer across four different colleges, Silva faced all of the challenges involved in travelling between the Baixada Fluminense region and the centre of Rio de Janeiro. Although they graduated quite some time ago, Emerson Correia da Silva and Moisés Menezes de Amorim benefited from the second wave of expansion to take place in higher education, which allowed them to study much closer to home. Both did, in fact, attend legal courses established in 1974 in Nova Iguaçu, at Nova Iguaçu Unified University (SESNI) and in Bonsucesso, at Augusto Motta Unified University (SUAM), respectively. The difficulties they both faced may be quantified by the condition of never having left Sendas personnel department while studying. Journey times were not inconsiderable due to poor public transport, frequent flooding on Avenida Brasil and heavy traffic along the President Dutra motorway, but despite this, they were not required to travel all the way to the centre of Rio de Janeiro, but “just” to Bonsucesso and Nova Iguaçu.

Viviane L. Amorim’s experience was completely different, as she obtained her diploma from Iguaçu University (UNIG) and studied at the São João de Meriti campus. Although she was originally offered a place at Cândido Mendes University (UCAM) in the centre of Rio de Janeiro and her father offered to provide her with a car to travel back and forth, she recognises that proximity (allowing her to maintain a job) and saving money on transport were important factors influencing her decision. This is undoubtedly an important consequence of the third wave of expansion taking place at the beginning of the 1990s, producing an inversion in the logic of the supply of higher education. While with the previous waves, expansion did not produce an inversion in the logic of the supply, and continued to demand that students travelled large distances, this logic was completely inverted with the final wave, with the supply falling to almost level to the demand.¹⁶ This shift is felt by Rita de Cássia Chehuan de Barros Silva, despite her heavy criticism of the expansion:

Actually, I think that there is a huge proliferation of law faculties... Loads... There shouldn't be, I don't know why there are so many... If the OAB doesn't approve them, I don't know why the Ministry of Education does, and we have so many

¹⁶ In Rio de Janeiro, this paradigm is widely represented by the expansion of Estácio de Sá University (UNESA), with the process reproduced by a larger number of its competitors.

people with invalid diplomas. Not just badly qualified, but unqualified! [...] The level is extremely low.

According to Silva, expansion shuffled different institutions' reputations, making it difficult to identify which courses were the best:

So now you see, isn't it ridiculous? The university here in Nova Iguaçu has a terrible reputation... But it was once a great university! The opposite has happened with Estácio, in my opinion... I'm not 100% sure but Estácio used to be very badly spoken of; and then people began to speak highly of it, and, now, that's a problem, because there are Estácios all over the place. [...] It's not sustainable... Unigranrio, here in [Duque de] Caxias has a really serious problem, because there is a law faculty in Bom Jardim, a small municipality outside Niterói, (...); and Macaé has one, Cabo Frio has one, Araruama has one... So they're going to end up closing because that can't go on like that, do you know what I mean?

She goes on to suggest that the fragile nature of the expansion has directly caused the difficulty of entering the profession, reflected in the results of the OAB entry exams. She says: *"Look at the OAB exams... They're extremely complicated! People take them and don't pass. And that's the way it should be... Loads of people are against it, but I'm not!"* Understandingly, Viviane L. Araújo expresses the opposite opinion:

The OAB exam is all about making money... They don't pick lawyers, because there are people I know who got through on civil service exams, and I've even heard my dad saying the same, that he knows people who didn't pass the exam. (So,) I don't see the point of having the exam because none of the institutions use it... Why does the OAB need its own exam? Not even medicine, which is even more serious, has one. I don't think there should be one because people don't need to pass, they need to work and learn... [...] You spend five years at university, and what do you get out of it? Do you know what I mean? [...] I did it, I know what it's like, it's hard work and it's not about how much you know... It's about passing exams!

The result of the expansion is, however, paradoxical, as while it improves access to training, it is also, within the sphere of the legal course, counterbalanced by the introduction of the obligatory OAB exam, restricting access to the profession. The latter is also heightened by the growth in the supply of legal services. Rita de Cássia Chehuan de Barros Silva, for example, identifies the appearance of the figure of the "audiencista"¹⁷ lawyer as one of the consequences of this process. According to Silva, an "audiencista" *"is a professional who you pay solely to be present at the trial. They don't deal with clients, they don't compile the brief... Do you understand? So, really, you hand everything over to them and they sit there at the hearing"*. This figure of the "audiencista" thus leads to the disappearance of the traditional process of intermediation undertaken by lawyers, in which they establish a personal link with the client. An "objectification" occurs in regarding the

¹⁷ Refer to lawyers who choose the hearing procedure.

clients' cases. This condition may be squared as another investigative clue to better understand the so-called process of legal increase of proletarians (Aguiar, 1991), whose beginnings are associated with the second wave of expansion in higher education in the 1970s.

d) The Ideological Character of the Labour Court

In its more than 60 years of existence, an image has developed of the Labour Court as providing justice for the worker, with deep ideological traces due to its supposedly excessively protective character. In light of this vision, it is not uncommon in the everyday labour law court for magistrates to be labelled as favouring employees or the employer, particularly because operators and users are the first to decode such behaviour according to certain signs. In this sense, it may be just as Celso Foli says: the Labour Court is biased toward the worker, as it is within it that the principle of *in dubio, pro misero* prevails. And biased in such a way, the Labour Court with its excessive concern for the worker might not see that in some circumstances, the truly weak side is that of the employer. Even if he recognises a supposed easing of the Labour Court's biased nature, he still practices de-codification, maintaining that among the district's head magistrates, one favours the employee and the other the employer.

This same de-codification is undertaken by Emerson Correa da Silva, who describes the district's magistrates as impartial and employer-sided, respectively. Although such a de-codification is also undertaken by Celso Foli, Emerson envisions a different scenario for the current Labour Court, as, in his opinion, it is significantly biased. He claims that *"anyone working for a company, loses out, (especially because) 90% of judges tend to favour the employee"*. The impression is shared by Rita de Cássia Chehuan de Barros Silva, who states that, *"as a rule, judges are sympathetic to those who are economically weaker"*. Thus in the face of such a scenario, would it be impertinent to ask what the role of labour rights would be? Rita de Cássia Chehuan de Barros Silva leaves no doubt in responding that:

Why does the labour law balance society? Because in my opinion, workers are totally mistaken to believe that the Labour Court protects them, and that if they go to court, they'll win. It's not like that... It's like a safety valve to prevent things ending up... Like in Nicaragua and other countries [...] I think labour law has stabilised this difference in wealth and poverty in Brazil, do you know what I mean? The inequality is so blatant, but with labour law you can control it a bit... People feel protected, even though who is really being protected is the employer, don't you think?

Her words actually reproduce the context of the creation of the Labour Court in Brazil, when, to the detriment to the idea of the class struggle and with the support of Comtian positivist doctrine, an idea was maintained of being at the helm of a new era, an era of cooperation between the classes. Conciliation between employers and their employees was one of the most perfect and refined expressions of cooperation between classes, and for this reason, it was always present as one of the pillars of the functioning of the Labour Court. It is clear that, over time, conciliation assumed other forms, particularly due to the volume of claims judged at the Labour Court. In other words, it gained huge visibility as an alternative to a rapid solution, facilitating a more fast-track jurisdictional provision. It also expanded the idea of the legal labour sphere as one including a space for negotiation, in which the construction of individual narratives gains an important role. It is in this context that stories from the world of work and chronicles of working life abound, one after the other, which are almost always based on a witness's account.

Furthermore, according to some of those interviewed, witness evidence suggests more proof of the biased nature of the Labour Court. In fact, Celso Foli even complains of the magistrates' tolerance, claiming that, *"when the employee's account is a lie, nothing happens; (but,) when the employer lies, the judge calls the police"*. Emerson Correa da Silva is more general in affirming that *"witnesses tell blatant lies and nothing happens to them"*, while Rita de Cássia Chehuan de Barros Silva does not hesitate to claim that *"anyone who lies has to face the consequences"*. However, she continues, *"you come to see that the person is openly lying, and (even still), they keep going"*.

Moisés Menezes de Amorim and Viviane L. Amorim are more cautious, suggesting that *"right you are, if you think you are"*. The former claims that, *"sometimes people think the witness is lying, and they aren't; sometimes, there is an inconsistency in the witness's account which doesn't amount to much"*, while the latter claims that:

People really fear the court... They think the judge is going to come down hard on them, due to the lack of information... For them it is really quite awkward, they don't feel comfortable, they are afraid to speak up and end up in jail. So, sometimes, it is not even that they are lying, but the very fact of stuttering, lacking confidence, there are judges who don't understand that and think that they are lying, which makes them even more afraid, even more nervous (...) And it's often nerves, but I've also experienced judges who've been threatening, saying they were going to charge them because they were lying.

She thus states how arduous it is to reconstitute facts, especially in an environment impregnated by an imaginary ideological snapshot, individually articulated by each of the

protagonists in the legal drama. Understanding the representations of the world of work which are constructed based on these narratives, as well as the appropriations effected by legal work, emerges as a significant investigative challenge, and on which is worth developing.

Conclusion

In the beginning the project aimed to: (a) develop a bibliographic mapping of the subject of access to justice, with a focus on the Brazilian judicial system, (b) recover empirical data concerning the trial proceedings at São João de Meriti Municipal Labour Court, and (c) preserve the history of lawyers' professional exercises in the Baixada Fluminense region, with a particular focus on the municipality of São João de Meriti. For the first objective, it was necessary to recognise that the bibliographic mapping, although undertaken, was frustrating, as national literature on the subject was revealed to be fundamentally lacking (or inexistent) on the focus adopted here, or in other words, on the vision constructed on the real. In truth, the work carried out on the labour aspect adopts the normative content as a means of entry, and as a consequence, produces a de-codification of the real based on the world of should-be, which was revealed to be incompatible with the proposal made here. The second aspect, in turn, and whose analysis was discarded, stated that the empirical data was even more unreliable and demanded a doubled effort to make sense of the statistical gross mass. In this sense, we might say that the work has not yet even completed its first stage. Finally, the project's richest results were found in the area related to the third objective, as they facilitated a profound understanding of the contentious dynamic existing in the municipality, making sense of the legal activity developed at the São João de Meriti Labour Court and tracing the professional careers of some of its actors. However, despite the fact that there are more lines of investigation than answers, the exploration of these different possibilities for analysis reveals itself to constitute an ever more pressing need to put an end to the geospatial paradox which means that proximity does not eliminate distance (to justice)!

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