

**CHANGING INDUSTRIAL RELATIONS IN
BRAZIL: DEVELOPMENTS IN COLLECTIVE
BARGAINING IN RIO GRANDE DO SUL,
1978 - 1991**

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ABSTRACT

In this research I am concerned with the nature of the evolution of industrial relations in Brazil between 1978 and 1991. I test whether the state corporatist system established in the thirties was dead by the early nineties and was replaced by a model that was pluralist by nature, whether it was in transition toward pluralism, or whether it was not dead. I am based on the assumption that key features of a system are expressed in the role played by collective bargaining in the regulation of industrial relations. The specific question I address is whether or not, and to what extent, collective bargaining developed in Rio Grande do Sul during the 1978-1991 period and what its significance is. I also assess the impact of the changes in the political and economic environments on the evolution of bargaining. I draw my conclusions from the analysis of the records collected in the files of the Ministry of Labour, of the Labour Courts, as well as of collective agreements established in the engineering industry of the Greater Porto Alegre region. I also use statements collected in interviews held with representatives of trade unions, of employer associations, of the Ministry of Labour, of the Labour Courts, and of a union consultancy agency. The outcome of my research is that, in the early nineties, Brazilian industrial relations could no longer be characterised as state corporatist, and neither could it be defined as a pluralist system. Moreover, I have also concluded that neither was it in transition towards pluralism. I rather decided that it should be called statutory-bargained system. Another outcome of this study is that although political liberalisation favoured the progress of negotiations, the economic downturn of the eighties hindered its further development.

This thesis is dedicated to Carlos Pichler, my father.

(In memoriam)

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CHAPTER ONE

INTRODUCTION

Corporatism in Brazil, set up in the 1930s, has survived various political regimes. In the early nineties, several authors maintained that corporatism had survived, others posited that corporatism was in transition towards pluralism, and still others speculated that the democratic attempt of the eighties had heralded a new industrial relations. In this thesis I test such ideas and shed light on the extent of changes in industrial relations.

The period that runs from the thirties up to the late seventies was marked by the industrialisation process of the Brazilian economy. It was a phase characterised by very extensive state interventionism in industrial relations. This entailed the setting of an authoritarian (or state) corporatist arrangement, which afforded the authorities a way through which they could influence the behaviour of employers and employees with a view to fit the needs of national development.

The institutions that were at the heart of the system were the official trade union organisation, the official employers' associations, the Ministry of Labour, the Labour Courts, and the comprehensive set of regulations of the individual labour contract. The rules that shaped the industrial relations system were established by the state in a far ranging labour code. These regulations were amended throughout the years; however, their fundamental nature remained the same until the mid-eighties.

A core feature of the Brazilian system of the period prior to 1978 was the extensive state interventionism over the internal affairs of the interest associations of employers and especially of employees. In return for being granted legal status, the organisations of these groups were required to co-operate with the state in promoting

social solidarity. This means that management and unions were constrained from acting as interest groups. That is to say, they were hindered from furthering the interests and needs of their members. In addition to having their freedom to organise constrained by the state, unions were forbidden to go on strikes and to undertake industrial action, while employers' were forbidden to lock out. Deviant behaviour was severely punished, especially during the height of the authoritarian political regimes, which lasted from 1930 until 1945 and from 1964 until 1985. The law became the main source of employment rights, while collective bargaining evolved into an underdeveloped or marginal means of regulation of industrial relations. Collective agreements used to be very narrow in scope and the involvement of the authorities – through the Labour Courts - in the resolution of labour disputes was very high. For further details on this subject see Chapter Three.

From the late seventies onwards, however, new developments in Brazilian society became noticeable. The first novelty was the end of political authoritarianism. The military regime, in power since 1964, declined and democracy was restored in 1985. The political liberalisation process entailed the introduction of major changes in the legal environment. In 1988 the government promulgated a new Constitution (Brasil 1992), which terminated the power of the state to intervene in the internal affairs of legal unions and employers' organisations, as well as eliminated the legal provisions that required these organisations to co-operate with the state in promoting social solidarity. Furthermore, the state also granted unions an extensive right to strike and enlarged the existing set of statutory substantive employment rights.

The second novelty was the revival of the trade union movement, a process that took place from 1978 onwards. After many years of repression, exercised by the successive military governments after 1964, workers managed to overcome the lack of

activism. Despite the restraints upon union actions, the leadership managed to mobilise the working class around the struggle against authoritarianism both at the firm and at broader political levels. Moreover, unions struggled for the right to strike and for the right to undertake free collective bargaining. As a result, during the eighties, workers' activism increased a great deal, which is expressed in the outstanding strike movement that occurred between 1978 and 1991. The upsurge of the trade union movement – which is referred to as 'new unionism' in the literature (Abramo 1991; Almeida 1996; Antunes 1988, 1991; Boito Jr. 1991; Cardoso 1999; Gomes 1988; Humphrey 1982; Keck 1989; Mangabeira 1991; Noronha 1991; Novaes 1991; Pastore and Skidmore 1985; Rodrigues 1990, 1991, 1993; and others) - is regarded by these authors as a landmark in modern Brazilian industrial relations.

The third new development that occurred during the eighties was the decline of the economic development model based on the import substitution of industrialised goods strategy set up in the 1930s. This is expressed in the decline of the rates of economic growth – in relation to the seventies -, in the rise of inflation rates, in the decline of the purchasing power – indicated by the decline of real wages -, and in the increase of unemployment rates. For a more comprehensive analysis of the changes of the eighties see Chapter Four.

There have been a significant number of the studies concerned with developments in industrial relations over the last decades. Some have focused on the impact of the political liberalisation process on the legal background (Magano 1972; Nascimento 1994). Others are concerned with the rise and the characteristics of the trade union movement, and with 'new unionism' in particular (Abramo 1991; Almeida 1983, 1987; Boito Jr. 1991a, 1991b; Keck 1989; and others). Changes in the labour market, in work organisation, and in the production processes have also been subject of

a number of studies (Carleial and Valle 1997; Castro 1994; Fleury and Fischer 1987, 1989; Humphrey 1992; Jornada, Sternberg and Zimmermann 1999; Salerno 1987; Liedke 1992; and others). Finally, developments in collective bargaining have been focused in some researches (Aguirre 1985; Almeida 1981; Brandão 1991; Bronstein and Córdova 1985; Córdova, Potobski, Bronstein and Morgado 1995; Gonçalves 1994; Horn 1992, 2003; Malan 1982; Pichler 1983; Pastore and Zylberstajn 1988; Silva 1988; and others).

There have been, however, relatively few authors concerned with the significance and extent of the changes experienced by the system during the eighties and nineties (Siqueira Neto 1991, 1992, 1994a, 1994b; Rodrigues 1990, 1993; Córdova 1985, 1989; Boito Jr. 1991a, 1991b; Noronha 1998a, 1998b; Power and Doctor 2004). The crucial point posed by these researchers is whether the former state corporatist arrangement still remained, at least partially, or whether it was abolished. I decided to analyse the works of Siqueira Neto (1991, 1992, 1994a, 1994b), Rodrigues (1990, 1993), and Córdova (1985, 1989) in depth since they are well-known and influential authors, because their analysis is focused on the changes of the eighties and because of their distinctive views. From this analysis, I have drawn the three hypotheses that guide this research.

According to one appraisal in the early 1990s, state corporatism was not dead (Siqueira Neto 1991, 1992, 1994a, 1994b); Rodrigues 1990, 1993). Neto claims that the basic authoritarian features of the old corporatist model still remained. These were embodied in the legal regulations of the trade union structure, of the Labour Courts system, of the right to strike, and of collective bargaining. According to Rodrigues, state corporatism was not dead because the trade union organisation set up in the thirties was preserved by the 1988 Constitution. Nevertheless, since authoritarian corporatism was

designed to keep conflicts under control, and since these institutions became less and less effective in preventing both unions to set up independent organisations and strikes from occurring, he concludes that the state corporatist system was starting to decline and that it was in transition towards pluralism. Finally, according to the third author (Córdova 1989), in the late eighties the Brazilian model could no longer be described as a state corporatist system. He claims that the system was profoundly liberalised although 'vestiges' of corporatism were preserved by the 1988 Constitution (Córdova 1989: 266). In Córdova's view, state corporatism was characterised by a lack of conflicts in the system. Since the amount of strikes soared in Brazilian industrial relations during the eighties, the author concludes that the system set up in the thirties had been eliminated. In my interpretation, this author concludes that the Brazilian system became pluralist by nature.

The analysis of the papers of the selected authors shows that the different assessments derive from their distinctive theoretical backgrounds, from the distinctive aspects of industrial relations they emphasise, and from the distinctive criteria by which they assess the changes that occurred. For a more detailed analysis of the studies of the selected authors see Chapter Five. Despite the relevance of these researches, my view is that they present some shortcomings. First, they fall short from analysing the form of regulation of industrial relations that is, according to Dunlop (1993), the aspect that defines the nature of a system of labour relations. Second, another shortcoming of these studies is the way they define corporatism. They see it either as a cultural feature of this type of social institution (embodied in a control and repression logic), which is the view of Neto, as a form of organisation of unions and management, which is the view of Rodrigues, or as a general character of labour relations – Córdova's view. I rather assume – based on the studies of Crouch (1985), Strinati (1979), and Williamson (1989)

- that this type of social arrangement should be characterised as a form of relationship between the state and interest associations of employers and employees that affect the status of the actors in industrial relations. The definition of industrial relations system, its elements, and the concept of corporatism are discussed in Chapter Two.

I am concerned with overcoming the limitations of the literature. More precisely, my aim is to test to what extent the speculation of authors regarding the transformation (or not) of the industrial relations system are confirmed, by analysing the patterns of regulation of industrial relations. The specific question this research addresses is to what extent collective bargaining developed and what its significance is. I also intend to assess the extent of the impact of the political liberalisation process and of the economic context on the evolution of the negotiations. The political liberalisation is likely to have increased the opportunities for the negotiations, while the decline of the economic context is likely to have hindered a further development of collective bargaining. These aspects are further analysed in Chapters Seven and Eight.

I assume that the more independent the parties become, relative to the state, the greater the opportunities for the development of collective bargaining. I posit that the extent of development of collective bargaining indicates the extent of changes in the system. The underlying issue addressed by my research is whether, and to what extent, unions and management became more autonomous from the state for the settlement of their labour disputes. The predominance of patterns of the past corresponds to the preservation of the form of regulation of industrial relations that was typical to corporatism, and vice versa.

The extent of the progress of collective bargaining is indicated by the form of relationship between union and management and by the scope of the agreements. If there is evidence of the development of collective bargaining relationships, which is

characterised by autonomy of the parties to the negotiations in relation to the state in dispute resolutions, and of the progress of the bargaining scope, I then assume that a break away from features of regulation of industrial relations, prevailing in the period prior to 1978, occurred. If this is the case, the corporatism-is-dead hypothesis is confirmed. In my view, a form of regulation in which employee representative associations participate, at least to some extent, in the establishment of rules regulating their relationship corresponds to a new type of industrial relations. The assumption that state corporatism was in a phase of transition towards pluralism is confirmed if there is evidence of an uninterrupted increase both of the autonomy of unions and management in relation to the state, and of the scope of the agreements. Moreover, the last assumption is confirmed if collective bargaining regulations increased at the expense of the decline of the statutory regulation.

The period under consideration in this research runs from 1978 up to 1991 since it is a particularly important phase in recent Brazilian history. It was a period during which the authoritarian military regime came to an end (in 1985) and was replaced by a democratic political system. This period was also characterised by the rise of the trade union movement and by an increase of conflicts in industrial relations. The landmark of the rise of the strike movement is 1978. The period considered in this thesis also coincides with the decline of the economic strategy of imports substitution industrialisation set up in the thirties. A discussion of the characteristics of the evolution of the political and of the economic environments, as well as of the characteristics of the trade union movement, can be found in Chapter Four.

In this research I analyse the evolution of collective bargaining in Rio Grande do Sul, the southernmost state of Brazil. This region was selected, firstly, because it is an industrialised and urbanised area which is peripheral to the south-east, the most

developed in the country. Secondly, this state is an area in which the trade union movement that emerged in the late seventies was firmly entrenched. Some of the leaders of the labour movement were union directors in this state during those years. Thirdly, Rio Grande do Sul was the Brazilian state in which the amount of trade unions and employers associations was almost as high as in the state of São Paulo, which is the most populated and industrialised region of the country (IBGE 1992: 23).

The conclusions of this thesis are drawn from the analysis of a varied set of data. The study of the evolution of the extent of state involvement in (or of the autonomy of the parties in) dispute resolutions is based on records of the regional tribunal of the Labour Courts and of the regional office of the Ministry of Labour. This is a comprehensive set of data that covers all negotiations held in Rio Grande do Sul between 1978 and 1991. The study of the form of relationship between the parties to the negotiations is based on evidence collected in interviews carried out with leaders of management and workers' interest associations in a segment of the engineering industry of the Greater Porto Alegre Region during the same time period. The study of the bargaining scope is based on a sample of collective agreements and arbitration awards established in the same micro-region. This area was chosen because it constitutes the most industrialised and urbanised area in the state. The selected industrial segment has the most powerful unions in Rio Grande do Sul. The interviews are supplementary sources of evidence of the behaviour of the parties to the negotiations. The set of respondents include trade union and employers association directors, representatives of the regional tribunal of the Labour Courts and of the Ministry of Labour, as well as a representative of a private agency for assistance to trade unions.

I have organised this thesis as follows. In Chapter Two I outline the theoretical background of the research. It includes the main concepts and the analytical scheme on

which the argument of the thesis is grounded. In Chapter Three I describe the basic features of the Brazilian corporatist arrangement, the legal background of industrial relations, and the characteristics of the practice of collective bargaining in the period prior to 1978. In Chapter Four I describe the key developments in Brazilian society between 1978 and 1991. I analyse the most salient changes that occurred during this period in the legal, political and economic environments. In Chapter Five I am concerned with the analysis of studies of the selected authors regarding the nature of the evolution of the Brazilian industrial relations system during the eighties. In Chapter Six I present the research design and the research methodology of this thesis. In Chapter Seven I am concerned with the study of the evolution of the form of the union-management relationship in Rio Grande do Sul during the period under consideration. I focus on the extent of development of collective bargaining relationships in this region of the country. In Chapter eight I am concerned with the evolution of the bargaining scope. Finally, in the Conclusion I point out the most important findings of this study. I state that the Brazilian system that emerged during the eighties is no longer state corporatist. It should be classified as a statutory-bargained industrial relations model. In this chapter I discuss the extent the conclusion of this research may be generalised to Brazil, and even to Latin America and the nature of the changes in Brazilian industrial relations during the 1990s.

CHAPTER TWO

INDUSTRIAL RELATIONS SYSTEMS AND COLLECTIVE BARGAINING

In this chapter I outline the analytical framework for the study of the nature and the evolution of industrial relations. I start from assumptions derived from Dunlop's systems theory, according to which different types of industrial relations systems could be distinguished by analysing the way the rules that regulate the union-management relationship are established. A crucial aspect that distinguishes one system from another is the extent of development of collective bargaining. Hence, I assume that the study of a given industrial relations system, and its changes through time, could concentrate on studying this social institution, albeit in relation to other forms of regulation.

For a better understanding of the conditions that favour or hinder the development of collective bargaining, I use the so called 'corporatist theory' (Williamson 1989). It sheds light on the social structures underlying labour relations and on the implications of distinctive arrangements in shaping the different systems. According to the studies of Schmitter (1974, 1985); Strinati (1979); Crouch (1977, 1979, 1983, and 1985); Crouch and Dore (1990); and Williamson (1989) some types of relations between state and interest organisations foster the practice of collective bargaining, while others favour the increase of the role of the state in labour relations and hinder the progress of negotiations. These ideas are useful for the study of the realities of developing countries, such as Brazil, characterised by high levels of state interventionism in industrial relations and a lack of progress in collective bargaining.

In the first section of this chapter I concentrate on the regulation of industrial relations. In the second section I distinguish and characterise the different types of industrial relations systems. I analyse features of state-interest group arrangements and on the role of collective bargaining in the regulation of the employment relationship. The stress is placed on the characteristics of corporatism and on the types of corporatist industrial relations systems. Finally, in the last section I focus on collective bargaining, highlighting its nature, the conditions that favour or hinder its development, structural characteristics, outcomes, and determinants.

2.1 Industrial relations systems and the regulation of industrial relations

I start with the concept of industrial relations system. This is followed by a discussion on the crucial aspects that were to be taken into account in studying union-management relations. I place the stress on the way this social form of interaction is regulated.

Industrial relations in a specific country or work community, in a given time period, is viewed by Dunlop (1993:13) as a comprehensive whole of interrelated elements. It is made up of three actors – management organisations, workers' organisations and governmental agencies – that interact within an environment that encompasses technology, labour and product markets, and the distribution of power in the larger society. The system also includes an ideology, or shared understandings, held by the actors that help to define their roles and to integrate the system. The output of the system constitutes a web of rules. Changes either in the broader environment, in the relationship of the actors, or in the shared understandings of the actors are expected to affect the rules.

The web of rules, viewed as the dependent variable of the model, comprises beliefs, taken-for-granted assumptions, as well as formal provisions of rights and

obligations (Edwards 1995: 13). They may be expressed in different forms, such as: regulations and policies of the management hierarchy; laws of any worker hierarchy; the regulations, decrees, decisions, awards, or orders of governmental agencies; rules and decisions of specialised agencies created by management and worker hierarchies; collective bargaining agreements, and customs and traditions of the work place and work community (Dunlop 1993: 53).

We may also distinguish substantive rules from procedural rules. The first type includes rules governing compensation in all its forms; duties and performance expected from workers; and rules defining the rights of workers. The second category includes procedures for establishing rules and procedures for deciding their application to particular situations. The procedural rules are directly related to the distribution of power in society, aspects that are decisive for defining the status of the actors (Dunlop 1993: 51-52; 107).

The procedures and the authority of the actors for establishing rules are crucial aspects of an industrial relations system. They are “peculiarly the product of public policies, including the history and traditions of a country” (Dunlop 1993: 109). The author points out that these aspects are considerably uniform within a country and have considerable stability over time (Dunlop 1993: 109; 129). He maintains, moreover, that we can distinguish one system from another by identifying the way labour relations are regulated within a given society (Dunlop 1993: 51).

The establishment of rules at the workplace and work community is a complex social process that depends on the power, knowledge and organisation of the parties (Edwards 1995: 13). The key element that defines the authority of the actors in the regulation of industrial relations is the power context.

Authority is defined as the legitimate use of power. The concept of power is here employed in two senses. In one sense it is the ability of someone to control others, or to impose directions or regulations upon others. In the other sense it is the ability to influence another party's decisions or actions. Influencing the decisions of others may be either the ability to force a change in the other party's decision, or the ability to generate an implicit influence "which will form an integral part of the environment which has to be taken into account by the other party in its decision-making process" (Salamon 1998: 70, 72).

The authority of the employers, employees and agencies of government in rule making is derived from the status of representative associations in the power structure. According to Dunlop, the status of any of the actors in an industrial relations system is defined as "the prescribed functions of that actor and the relations with the other actors in the system" (Dunlop 1993: 110). The status of workers and their representative associations is characterised by the network of prescribed interrelations with the management hierarchy, with rival or potentially rival organisations of workers, with workers and their organisations and, finally, with government agencies. The status of management is the network of interrelations with workers and their organisations, with rival management organisations and with the government. The status of government is characterised by its role in determining substantive rules directly, or by determining the rules of the interaction between workers and managers (Dunlop 1993: 110, 121, 125).

We may conclude that since the power context defines the form of the relationship between the actors, changes in the power distribution in the broader society, in a given time period, are likely to affect the status of the actors and hence the patterns of their interactions. And since the form of relationship between the actors defines the

form of regulation of industrial relations, changes in these relationships affect the broader characteristics of an industrial relations system.

There are a number of methods of regulation - which could also be regarded as different sources of employment rights. The most important ones are: unilateral imposition of terms of employment by employers or by unions (or unilateral regulation); government regulations and arbitration awards (or statutory regulation); and collective bargaining. Other methods are individual bargaining, between employer and employee, and informal work group arrangements (Beaumont 1990: 6, 104; Edwards 1995: 6-10; Keenoy 1990: 96-148; Windmuller 1987: 7).

The sub-system of resolution of labour disputes is another source of employment rights. It is embodied in the facilities established and maintained by the state at public expense. The major dispute settlement mechanisms this sub-system encompasses are: judicial settlement or adjudication by courts of law; conciliation; mediation; and arbitration (Bean 1991: 119; Daya 1989: 5; Salamon 1998: 439-455). In all these cases a third party intervenes in union-management relationships.

Adjudication is a procedure whereby ordinary courts, or special labour courts, settle any disputes over rights and obligations (Daya 1989: 15). Conciliation and mediation are those procedures whereby a "third party provides assistance to the parties in the course of negotiations, or when negotiations have reached an impasse, with a view to helping them to reach an agreement" (Daya 1989: 15). In conciliation hearings the third party brings the parties to the negotiations together and encourages them to find, on their own, the solution to the impasse. The responsibility for making decisions and reaching a solution still remains in the hands of management and union. The conciliator has no authority to compel or to impose a settlement (Salamon 1998: 439). In the case of mediation, the third party has a much more active role in assisting the

parties, going as far as submitting his own proposals for the settlement of the dispute (Daya 1989: 15; Salamon 1998: 442-443). Finally, arbitration is a procedure whereby a third party is empowered to make a decision which settles the dispute (Daya 1989: 15). In these cases, the parties lose their power over the settlement entirely (Salamon 1998: 440). Arbitration awards are legally binding.

Dispute settlement mechanisms could be either voluntary or compulsory by nature. The label voluntary “implies that management and union have complete discretion to make, or not make, such ad hoc or permanent arrangements as they consider necessary and appropriate for resolving any impasse” (Salamon 1998: 448). In contrast, the label compulsory “implies a removal of management’s and union’s freedom to determine their own affairs” (Salamon 1998: 448). The involvement of an ‘external’ to the dispute is imposed through legislation. In practice industrial relations systems are characterised by a combination of voluntary and compulsory features (Daya 1989: 16, 17).

Varying degrees of authority of the actors in society correspond to distinctive methods of regulation of industrial relations. There is unilateral regulation when rules are set solely through the authority or power either of employers or of employees. This concept is applied to describe those situations in which trade unions are either not recognised or play only a minimal role in the regulation of employment (Keenoy 1990: 97). I assume that the predominance of management unilateral regulation – expressed by a lack of negotiations – indicates a rather primitive form of employment relationship. In the case of statutory regulation, it is the government that has the authority to set employment rules. Finally, in the case of collective bargaining employers and employees enjoy some measure of authority to determine rules.

Different forms of regulation exist side-by-side even though one predominates over the others. In all situations a combination of these methods may be found. Statutory regulation determines the basic character of the employment contract including health and safety rules. Other issues, such as the distribution of the profits, tend to be established through unilateral regulation. There are no employment issues over which collective bargaining enjoys exclusive domain (Keenoy 1990: 146).

According to Bellace (1994), in the most advanced industrialised market economies a process of juridification of labour relations has taken place during the twentieth century. This process corresponds to an enlargement of statutory regulation and, hence to an enlargement of the role of the state. The author maintains that this process entails, on the one hand, a more comprehensive web of legal regulations. Over time, the law has increasingly covered a larger number of issues such as health and safety, methods of payment, individual contractual arrangements – targeting the ‘abuses’ of the free market system -, occupational training, dismissals, discrimination and other aspects. Furthermore, the law has covered regulations on unemployment compensation, retirement, and social security as well. On the other hand, the process of juridification encompasses a “portfolio of regulatory mechanisms including administrative measures [and] ministerial decisions” (Bellace 1994: 26).

The advancement of juridification of labour relations was not made at the expense of collective bargaining in the major industrialised market economies. That is to say, negotiations and the law are not necessarily incompatible. In some cases – such as in France – legislation is designed to encourage the spread of collective bargaining (Adams 1994: 57). In others, such as in Germany, the law provides protective rules and welfare provisions for individual workers (Bean 1991: 118). In this country collective bargaining and legislation are viewed as supplementary and mutually reinforcing means

of rule setting. Achievements reached at the bargaining table may be incorporated into the law and be extended and passed on to the entire labour force (Bean 1991: 119).

Since rule-making methods are sources of employment rights, we may assert that one method predominates over the other when the regulation of industrial relations depends more on one source than on the alternative. Thus, a specific form of combination of methods of regulation defines a type of industrial relations. A given type system corresponds to a crystallization of a peculiar power distribution in a given society.

The point I have highlighted in this section is that the crucial aspect of an industrial relations system is the form of regulation of industrial relations. Behind a given form of regulation of industrial relations lies a power relationship between the actors that is shaped by the power context. This aspect of the broader environment defines the status of the actors and their authority in determining the conditions under which work is performed. In the section below I will show how these relationships are typically shaped in different industrialised societies and how they affect the form of regulation of industrial relations.

2.2 A typology of industrial relations systems

In this section I outline a set of ideal types of industrial relations systems. In addition to broadly characterising the different models, I go into further detail in the analysis of corporatism. Apart from characterising the different types of corporatist arrangements, I am concerned with describing the nature of this sort of social structure. The corporatist systems will be discussed more lengthily than the alternative types since it is a crucial concept for the study of the Brazilian system.

Crouch (1985), Strinati (1979) and Salamon (1998) put forward one analytical framework used to classify industrial relations. The aspects considered in this typology

are the dominant political ideology, the types of power relationships between interests associations of employers and employees and the autonomy of unions relative to the state in different settings. The combination of these aspects is reflected in different forms of regulation of industrial relations. The types of systems identified are, namely, market individualism, pluralism (also referred to as liberal collectivism), bargained corporatism (also referred to as societal corporatism or neo-corporatism), and state (or authoritarian) corporatism.

Market individualism is a model that has been associated to the early stages of industrialization in western societies. It is characterised by the dominance of a liberal or 'laissez-faire' ideology, and is a system in which labour is weak, unorganised and subordinated to employers. The union-management relationship is, at best, paternalistic or, at worst, exploitative. The role of government is largely passive and there is little legislation to protect employees. In this model it is assumed that the employment contract is primarily an economic relationship between two individuals (Salamon 1998: 271-272). In this system prevails management unilateral regulation of the employment relationship. Since the economic function of unions is restricted, collective bargaining tends to play a quite marginal role in the regulation of industrial relations.

Pluralism is defined, by Schmitter (1974: 96), as:

“a system of interest representation in which the constituent units are organised into an unspecified number of multiple, voluntary, competitive, non hierarchically ordered and self-determined (as to type or scope of interest) categories which are not specially licensed, recognised, subsidised, created or otherwise controlled in leadership selection or interest articulation by the state and which do not exercise a monopoly of representational activity within their respective categories.”

Schmitter stresses the form of organisation of workers and employers. He argues that under pluralism the formation of interest organisations is spontaneous, and there are

no restraints to their proliferation. The associations compete among themselves to attract members (Schmitter 1974: 97).

Salamon (1998) emphasises the form of the institutional relationship existent between the state and interest groups. According to him pluralism implies that the state upholds the principle of non-intervention in the disputes that arise in industrial relations. In these cases, state regulation “is confined to creating a (modest) legal framework within which private individuals and businesses can conclude agreements” (Salamon 1998: 272). Autonomous trade unions, which represent, negotiate and reconcile conflicting interests with management through collective bargaining, are accepted. Government regulation is supportive to union-management rule making. In this case statutory regulation is a supplement to collective bargaining (Bean 1991: 100-122; Salamon 1998: 272; Windmuller 1987: 3-8). This type of system includes official conciliation and arbitration services that remain voluntary by nature (Strinati 1979: 207).

Pluralist industrial relations are those in which the ‘free collective bargaining system’ prevails (Kochan 1980: 235). This is defined as the “right to negotiate a labour agreement without the intervention of the government or some outside force” (Kochan 1980: 235). The freedom to contract requires the freedom to reject a contract offer and the power to affect the course of events, which is expressed in the right to strike and to undertake other industrial actions. That is to say, the right to negotiate comes alongside with the right to strike (Kochan 1980: 236).

A basic condition for free collective bargaining to develop is that society accepts the legitimacy of the conflict of interest between workers and employers. Kochan (1980: 236) points out that the negotiation process is the “arena where the conflicting interests and goals of the parties are acted out and confronted”. This means that the

interest associations of employers and employees have to be responsive to the interests and expectations of their members and that they have to build organisations that perform effectively in negotiations.

The contrasting type of industrial relations systems is **corporatism**. Schmitter (1974: 93-94) defines it as:

“a system of interest representation in which the constituent units are organised into a limited number of singular, compulsory, non-competitive, hierarchically ordered and functionally differentiated categories, recognised or licensed (if not created) by the state and granted a deliberate representational monopoly within their respective categories in exchange for observing certain controls on their selection of leaders and articulation of demands and supports” (Schmitter 1974: 93-94).

Williamson (1989) built a general model of corporatism distinguishing its main components. The main features of this type of arrangement are, according to him, the following:

First, in general, corporatism is a means of structuring the relationship between state and interest associations of employers and employees, referred to as ‘producer groups’ (Williamson 1989: 206). The arrangement affords the state a measure of influence (or control) over societal groupings in the area of production. Such developments can occur through voluntary processes or by imposition of state dictate (Williamson 1989: 204-207, 223).

Second, interest associations are attributed with public status. The state can supply representational, organisational and procedural attributes and resources to the recognised groups – granting them with a measure of power. Nevertheless, according to Williamson (1989: 207), “this separates the association from the interest, ideologies and needs of its members, and makes the organisation more dependent upon the state”. By attributing public status to interest groups the state becomes capable of exerting control

over the organisational behaviour of strategic segments of society such as trade unions, employers' trade associations, and the professions (Dunleavy 1991: 27).

Third, an essential element is that the state can make demands and constraints on the behaviour of the recognised organisations. The attribution of public status is typically used as a "kind of licence with which to make demands upon the behaviour of the association" (Williamson 1989: 207). The legally-entitled associations are expected to act as intermediaries between the state and economic and social decision makers (Williamson 1989: 30). These groups are not simply representative bodies but also regulatory ones, acting on behalf of the state. In this sense, the interest associations provide state authorities with mechanisms for intervention in the economy at large and in industrial relations in particular (Williamson 1989, 44).

Hence, a trade-off between state and licensed producer groups underlies corporatist arrangements. The state supports the organisation in various ways in exchange for some constraints in demand-making and leadership selection. Therefore, we may say that "corporatism not only encompasses the attribution of status but also that the status takes the form of a licence of behaviour" (Williamson 1989: 207).

Crouch and Dore (1990: 3) follow the same line of reasoning. They contend that corporatism involves an implicit or explicit bargain, or trade-off, between the interest groups and the state. According to these authors, one element in the bargain is that those groups that entered into the arrangement "receive certain institutionalised or *ad hoc* benefits in return for guarantees by the groups' representatives that their members will behave in certain ways considered to be in the public interest". A crucial aspect of the 'bargain' between state and interest groups is that it requires a varying degree of discipline of associated members of the respective organisations. This control may be carried out either by the organisation itself, or is exerted from the 'outside' by the state

(Strinati 1979, 205-206). The essential element of any type of corporatist structure is that there are restraints upon the actions and forms of organisation of employers and employees. Corporatism affects the status of the actors in the power structure by limiting the freedom of the parties– and hence the authority and the role - of the respective groups to the arrangement in the regulation of industrial relations.

Fourth, the state grants monopoly (or near monopoly) of representation to the recognised interest associations. This is a means by which the state can prevent producer groups from escaping from corporatist structures of representation, and hence from state controls or influence. Williamson (1989: 209) points out that alternative associations may exist, providing they lack effectiveness. In other words, weak associations may be acceptable. The author points out furthermore that the monopoly of representation is taken as the principal indicator of corporatism. He maintains that this has to do more with the relative ease with which corporatism can be assessed, rather than with its overall significance. Thus the mere existence of monopoly of representation does not indicate that a give system is corporatist, the other criteria being attribution of public status, performance of quasi-public functions, compulsory membership or authority to regulate members and non-members alike.

Fifth, corporatism involves the performance of quasi-public functions by the interest organisations. The recognised groups can assume a variety of roles in implementing public policies. The more the state hands over responsibility for the performance of public functions, the more developed the form of corporatism is. Hence, the recognised interest associations must have the authority and the power to gain the compliance of the members to bargains reached with state authorities, which is the case of the neo-corporatist arrangements (Williamson 1989: 211-213).

Sixth, the performance of a role in implementing public policies, by the recognised interest associations, needs either compulsory membership or authority, delegated from the state, to regulate members and non-members alike (Williamson 1989: 214).

Summing up, corporatism is essentially a means by which the state influences or exerts control over the behaviour of interest groups, limiting their autonomy. It is associated with state interventionism in the economy. In exchange for being attributed public status, the organisations that enter into the arrangement are required to perform public functions - handed over by the state. These functions correspond to the broader social and political goals established by the rulers in power. The implication of this trade-off is, that the representative function of interests associations is, to a varied degree, distorted.

Bearing in mind the general characteristics of corporatism, we can return to the description of the remaining types of industrial relations systems. The third model identified by Crouch (1985), Strinati (1979) and Salamon (1998), is **bargained corporatism**. This system is characterised by active state intervention in labour relations, usually in consultation with the social partners, the legally-entitled interest associations, and by active state support of these organisations (Salamon 1998: 273).

Under this form of corporatism the control of the state over the interest associations is exerted indirectly. According to Crouch (1985: 457), the “participating groups accept joint responsibility for the order and progress of the system as a whole and undertake to help [governments] to guarantee the on-going commitment of their members to co-operation”. The control of interest groups’ behaviour – or the discipline of their members - is exerted by their own leadership. Government then becomes a bargaining partner that is able to offer several things which cannot be achieved by

employees in bargaining, by their own industrial strength, such as social policy reforms, workers' rights, and changes in economic and fiscal policy (Salamon 1998: 273; Hill 1986: 255-256).

In a bargained corporatist arrangement, the parties - though somewhat restrained in their autonomy – are expected to regulate their relationship through collective bargaining. The state may assist them by establishing standards for the individual employment contract that may be improved by negotiations. Since the relationship between the parties still relies much on collective bargaining, this form of arrangement may be considered a collective bargaining-based industrial relations system (Cella and Treu 1991: 19-20).

The **state corporatist** type of industrial relations system is typically set up under authoritarian rule. Authoritarian regimes are those in which the power is exerted solely by a leader or by a governing group. Under authoritarianism, opposition to the ruling elite is crushed and the autonomy and independence of interest organisations is severely circumscribed. In these types of regimes, political party pluralism is either prohibited or preserved to simulate democracy. The power position of the ruling elite is not to be disturbed by opposing groups. In these situations the state plays a very active role in conducting economic development (Stoppino 1986: 94-104).

The basic characteristic of the state corporatist institutional structure is that the “different functional interests, but particularly labour, are suppressed or incorporated into the political system” (Salamon 1998: 273). The concept of state corporatism is especially applicable to societies where governments seek to impose a system of interest representation. These systems are aimed at eliminating spontaneous group formation and at establishing, from above, a “limited number of authoritatively recognised groups that interact with the government apparatus in defined and regularised ways” (Malloy

1977: 4). The interest groups are organised in vertical functional categories and are “obliged to interact with the state through the designated leaders of authoritatively sanctioned interest associations” (Malloy 1977: 4). The setting up of an official structure of associations for capital and labour – the ‘syndical’ system – under authoritarian political regimes involves the crushing of autonomous trade unions and employers’ organisations.

According to Williamson (1989: 36), the licensed labour ‘syndicates’ become a very effective means for the subordination and disciplining of labour under state control. In the countries in which this type of arrangement was set up “harassment, intimidation and imprisonment helped to sustain this state of affairs and quelled any less organised attempts by workers to protect their interests”. In this sort of arrangement the control upon employers’ ‘syndicates’ is less strict. The state typically allows powerful industrial, commercial and agricultural interests to dominate employers’ organisations.

Historically, the establishment of the ‘syndical’ system – in the mid-twentieth century – was followed by a considerable increase of economic intervention. The regulation of wages and other labour conditions was subjected to extensive interference and guidance from state authorities. Moreover, the ‘syndical’ system was backed by laws constraining union activities – strikes and other industrial actions were rendered illegal – and by the setting up of a compulsory system of resolution of labour conflicts (Williamson 1989: 37). The control of the state over interest organisation under authoritarian rule made the legal ‘corporations’ turn out not to be “intermediary bodies, but simply part of the state machinery proper” (Williamson 1989: 38).

The authoritarian corporatist arrangements imply that the actors are under the control of the state. This means that their autonomy and authority in the regulation of industrial relations is undermined. The opportunities for collective bargaining in these

settings are very narrow and bargaining becomes a marginal (if not absent) means of regulation of industrial relations. The regulation of industrial relations is taken over by the state, which determines the substantive rules of employment directly.

The general conclusion that we can derive from the analysis of the different types of systems is that the character of the union-management relationship may vary considerably from one type of system to another. In the pluralist models collective bargaining is the dominant procedure to regulate industrial relations. In the bargained corporatist systems collective bargaining also dominates, though these models involve a good deal of state involvement in industrial relations – as a bargaining partner and as a regulator. In the state corporatist systems, however, collective bargaining is typically an underrepresented method of regulation of the labour relationship. In this variant of corporatism, the discretion of employers and employees is severely constrained and the rules for union-management interaction are set by the state. In this case, the opportunities for negotiations are quite circumscribed thanks to the restraints set by the state on the actions of the representative associations. Finally, the societies in which prevails market individualism the state is passive and management unilateral regulation dominates.

In the section below I am concerned with the definition, the nature and general characteristics of collective bargaining. I will also discuss the conditions within which collective bargaining emerge and develop.

2.3 Nature, features and determinants of collective bargaining

In this section I define collective bargaining and point out the aspects that indicate whether or not, and to what extent, it has developed in a given society. I assume that this can be assessed by analysing the form of the actors' relationship and the

outcomes of negotiations. The final part of the section I am concerned with the economic and political conditions that impact on the evolution of bargaining.

Collective bargaining is defined, by Windmuller (1987: 3), as:

"a process of decision-making between parties representing employer and employees interests. Its overriding purpose is the negotiation and continuous application of an agreed set of rules to govern the substantive and procedural terms of the employment relationship, as well as to define the relationship between the parties to the process.(...) [C]ollective bargaining should be understood to refer not only to the negotiation of formal collective agreements, but also to other aspects of the collective dealings between the parties."

One of the points derived from this definition is that collective bargaining is a rule-making process. Another aspect, pointed out by Flanders (1975: 218-219), is that bargaining is essentially a pressure group activity and the resulting deals are compromise settlements of power conflicts. Thus, apart from being a rule-making process it is a power relationship between organisations of employers and employees. The process of bargaining is viewed by Flanders (1975: 219) as a diplomatic use of power, which is derived "from the possession and collective exercise of the will to work or abstain from working - a power exercised as truly in the negotiation of agreements as in the conduct of strikes".

Collective bargaining may be distinguished from unilateral decision-making and from legislation and statutory orders. The rules established in the agreements are jointly determined by representatives of employers and employees. It does not exclude third-party assistance, including arbitration, nor does it imply complete autonomy of the parties in rule making activities, providing that their general authority to regulate their relationship remains unimpaired (Flanders 1975: 221).

The crucial aspect derived from these ideas is that if collective bargaining is a power relationship, then the representative associations are supposed to be responsive to the interests and expectations of their members. That is to say, unions (and employers

associations) have to act as interest groups and be built as organisations that act effectively in negotiations (Kochan 1980: 174-175).

Therefore, the central point is the autonomy of unions in relation to the state. Autonomy is defined as the capacity to exert a representative role. Collective bargaining requires both unions being free from state intervention in their internal affairs and an extensive right to strike. Under state corporatism, unions are part of state machinery and are supposed to perform the public functions handed over by the state, apart from being constrained in their right to strike. This means that they are constrained in their actions to the point that they are unable to exercise a representative role regarding their members. Thus, in this type of system the practice of bargaining is hindered. In short, the implication of the lack of union autonomy is the lack of development of collective bargaining and vice versa.

I conclude that the essential elements through which we can assess whether or not collective bargaining has developed and what is its role in industrial relations is, first, the form of union-management collective relationship and, second, the outcomes of this interaction, which are procedural and substantive rules. I will label the form union-management relationship as **collective bargaining relationship**, and the outcome of the interactions as **bargaining scope**. These are the specific variables through which I will assess the nature of the evolution of Brazilian industrial relations.

The collective bargaining relationship is defined as a type of union-management interaction in which the parties enjoy autonomy, in relation to the state, to regulate their relationships. It is a form of relationship, between union and management representatives, at the bargaining table, characterised by a type of state involvement that does not undermine the general authority of the actors at the bargaining table. It implies willingness to negotiate, responsiveness of unions (and of employers' associations) to

needs and expectation of members, and a concern of the interest associations with their effectiveness in negotiations. This type of behaviour of unions and management could be characterised as pressure group activity (or as power relationships), which are typical to collective bargaining-based industrial relations systems.

I assume that state corporatist industrial relations systems hinder the appearance of typical collective bargaining relationships. I also assume that the development of this type of social relations in this type of society indicates changes in the nature of labour relations.

The bargaining scope is defined as the range of subjects covered within a particular bargaining unit by its collective agreements (Farnham and Pimlott 1995: 153). Collective agreements are the outputs of collective bargaining processes. They (1) “provide constitutional frameworks by which the parties to collective bargaining can make, apply and monitor the industrial relations decisions affecting themselves and those on whose behalf they negotiate”; (2) “define the market and managerial relations between employers and employees” (Farnham and Pimlott 1995: 166).

According to Salamon (1998: 323-324), the scope of the settlements may be broken down into: substantive rules, procedural rules and working arrangements. The substantive rules, regarded as the primary purpose of unions and collective bargaining, include the regulations of the ‘economic’ relations between employers and employees: pay related issues, work hours, paid holidays, fringe benefits, and other aspects. Procedural rules are those that regulate the relationship between the parties to the negotiations, “define the bargaining units, and determine the status and facilities for trade union representatives in the bargaining process” (Farnham and Pimlott 1995: 167). These types of provisions regulate the “exercise of managerial authority and the participation of employees and their representatives in organisational decision-making”

(Salamon 1998: 325). They may include stipulations regulating grievances, discipline, redundancy, consultation, job evaluation, and others (Salamon 1998: 325). Finally, working arrangements are those provisions that define the nature of the work and the way it should be carried out by employees. Among this type of regulations are manning levels, inter-job flexibility, time flexibility, use of contractors, and other aspects (Salamon 1998: 326). It should be pointed out that the types of rules listed above are not confined to collective bargaining. They may be set through statutory regulation or be at the discretion of management (Salamon 1998: 323, 326). This is a list of standard issues that typically can be found in collective agreements set in societies in which collective bargaining is the principal method of regulation of industrial relations. I assume that in the state corporatist systems the scope of the agreements will be very narrow, and not contain most of the aspects above mentioned.

Apart from the bargaining scope the other structural aspects of collective bargaining are the bargaining level, the bargaining unit, and the bargaining form. The bargaining level refers to the hierarchical and horizontal layers where the bargaining relationships take place. The bargaining unit “comprehends the groupings of employees and employers who are represented in collective negotiations and who are subject to the terms embodied in the agreement” (Windmuller 1987: 83). These groupings could be of varied dimensions. On the employer’s side, it could be the individual enterprise or a smaller unit within it (plant, workshop or department). It could alternatively be a group of enterprises at the regional or national level. On the employees’ side, the bargaining unit “may contain no more than a small number of craftsmen in a single enterprise who share a certain skill and exercise a common function, or it may be as comprehensive as the workforce attached to an entire industry” (Windmuller 1987: 83). The bargaining units define the coverage of the negotiations. That is to say, they indicate which groups

of workers are covered by the agreements (Bean 1991: 73; Salamon 1998: 326). Finally, the bargaining form is related to the ways in which an agreement is recorded. An agreement or a set of agreements may be written and formally signed, or unwritten and informal.

Once collective bargaining has developed within a given society, we may identify the characteristics of its structures, processes and outcomes. These features tend to remain relatively stable through time (Salamon 1998: 332). However, they may gradually modify in response to changes in a number of factors.

The factors that affect collective bargaining, at the most general level, are referred to in the literature (Dunlop 1993; Kochan 1980), as the external environment. According to Kochan (1980: 37), this environment “provides the incentives and constraints on the parties to conform to the expectations of the public, the requirements of public policy, and economic necessity”. The author points out that, in the long run, the parties to some extent, influence the external environment. “It is only in the short run that we can view the environment as being external to and somewhat fixed for the parties” (Kochan 1980: 37).

I assume that the main external environment element (or explanatory variable) conditioning the negotiations is the distribution of power within society. The power context is expressed in the political regime and in the legal and legislative environment. The political regime is defined as the structure of formal and informal roles and governmental processes, and includes the method employed to choose rulers (elections, coups), formal and informal mechanisms of representation and patterns of repression (Collier et al. 1982: 377). The legal and legislative environment is, to some measure, affected by the political regime and is here viewed as the expression of public policies towards unions and industrial relations. These policies affect (and are expressed in) the

status enjoyed by the actors in industrial relations. The most significant aspects that shape the basic characteristics of a type of system are the status of unions in relation to government, the status of unions in relations to workers and the status of governmental agencies in relation to the form of union-management interactions. It is hypothesised that these statuses can positively or negatively affect the development of a collective bargaining relationship and of the scope of the agreements.

The economic context, an element of the broader environment as well, provides another set of factors that are likely to affect developments in collective bargaining. According to Kochan (1980: 37-42), it includes three critical sets of macroeconomic policy variables, namely fiscal policy, monetary policy and incomes policy. Macro policy variables influence the overall conditions of the economy by affecting unemployment, the rates of inflation and real wages, and economic growth (Beaumont 1990: 23; Kochan 1980: 38-39).

Rises in unemployment rates negatively affect the level of union membership, the strike activity and union bargaining power (Beaumont 1990: 23). In contrast, price and wage changes positively affect the propensity of employees to join unions and hence the strength of interest organisations. "Rising prices are perceived as a threat to living standards, so that the faster prices are increasing the more likely are workers to wish to join a union in order to maintain their standards of living" (Bean 1991: 42-43). As regards to variation of wages, it is hypothesised that workers "may seek to unionise not only to defend existing standards of living but also to attempt to improve upon them" (Bean 1991: 43). When wages are rising, workers may credit such rises to unions and "hope that by beginning or continuing to support them they will do as well or even better in the future" (Bean 1991: 43). Kochan (1980: 37-42) stresses that unemployment, and price and wage changes affect collective bargaining in three

important ways: a) influencing the expectations of the parties; b) impacting on the short-run bargaining power of unions and employers; and c) setting constraints on the range of discretion that the negotiators have on the bargaining table. The behaviour of the actors is seen as an intervening variable affecting collective bargaining.

Other economic forces that are likely to affect collective bargaining in the long run are the changes in number, in the composition and in the distribution of the workforce. As regards to the distribution of the workforce, the aspects that stand out are: (a) the proportion of white collar, service sector employment in the labour force; (b) the proportion of women in the workforce; (c) the proportion of part-time work, temporary work and self-employment (Beaumont 1990: 22-26; Salamon 1998: 39-45, 96-102).

The evolution of collective bargaining is also likely to be affected by social values, ideologies of political parties and of the rulers in power (Beaumont 1990: 30-36). Unions may be positively or negatively regarded in society and this may or may not favour union activism and negotiations. Political parties and government ideologies are important and active elements “for it is they who ultimately determine the direction, policies and actions of the governmental process” (Salamon 1998: 50). State policies and actions are shaped by the view of the rulers in power regarding the nature of the society that they are intended to create or at least to encourage (Salamon 1998: 50). As far as industrial relations are concerned, these ideologies are reflected in the nature and the extent of the power that unions may be allowed to exercise within industry and society. They are also related to the views regarding the maintenance of ‘law and order’, such as policies towards strikes and picketing (Salamon 1998: 51).

Summing up, in this section I have argued that the nature of industrial relations could be assessed by studying the collective bargaining relationship and the scope of the agreement. I assume that under authoritarian corporatism a typical collective bargaining

relationship is not likely to develop. I also maintain that the main factors affecting the development of collective bargaining are the power context, the economic context, and social values.

Conclusion

I assume that industrial relations systems could be characterised by the way the employment relationship is regulated. A given type of system corresponds to a particular configuration of the methods of regulation (collective bargaining, statutory regulation, and unilateral management regulation). In each type of system - market individualism, pluralism, bargained corporatism, and state corporatism - one of these methods prevails over the others as source of employment rights.

I have shown that collective bargaining plays distinctive roles in the regulation of industrial relations in the different types of systems. In societies characterised by market individualism, labour is weak, the state is passive, and collective bargaining lacks development. In this system management unilateral regulation prevails. In the pluralist systems, collective bargaining is the prevailing method of regulation of industrial relations. In the bargained corporatism, collective bargaining is also the principal method of regulation, although in this system the state plays an active role in industrial relations at the national level by enacting statutory regulation, usually in consultation with unions and management. Finally, in the state corporatism the employment relationship is regulated by the state through statutory regulation, unions and management are weak, and collective bargaining is underdeveloped. Given these different situations I maintain that the nature of a system, and the nature of its evolution through time, can be assessed by analysing features of collective bargaining.

I conclude that by analysing both the features of union-management relationships and the scope of the collective bargaining agreements I can assess the role

of collective bargaining in the regulation of an industrial relations system. I posit that the societies in which the negotiations play a significant role in the regulation of labour relations collective bargaining relationships develop and the scope of the collective agreements is accordingly large.

We have also seen that the evolution of collective bargaining is affected by a number of aspects. The crucial factor determining its development is the power context, from which derives the status of the actors. I posit that the nature of the power relations in a given society is expressed in public policies and in the legal background of industrial relations. The economic environment is another factor that considerably affects the evolution of the negotiations. The fluctuations of the economic activity are expressed in the variations in prices, in real wages, and in the levels of unemployment. These aspects have a considerable impact on expectations and attitudes of the actors and may favour or not the practice of bargaining.

The analytical framework here outlined will be used in the study of Brazilian industrial relations. The next chapter is concerned with the features of the system in the period prior to 1978. I describe the political and economic circumstances in which the authoritarian corporatist model was born. I highlight the type of state-interest group institutional relationship on which industrial relations were based, and the features of bargaining that correspond to it.

CHAPTER THREE

FEATURES OF THE INDUSTRIAL RELATIONS SYSTEM PRIOR TO 1978

In this chapter I am concerned with the nature of the Brazilian industrial relations system prior to 1978. I assume that the system, set up in the thirties by the Vargas Regime, could be classified as a state corporatist model. It is characterised by very high state interventionism and by a lack of development of collective bargaining.

I also assume that the establishment of a state corporatist system is coupled with the industrialisation process that took place from 1930 onwards. This is the phase of the shaping of the 'national development' model ('nacional desenvolvimentismo') and of consolidation of industrial capitalism in Brazil (Camargo 1992: 9; Cardoso 1999: 53; Conceição 1989: 167-208). This development model combined political authoritarianism with an economic policy aimed at furthering industrialisation.

The first section provides a broad overview of the evolution of the political and economic environments from 1930 until 1978. This period is characterised by high levels of authoritarianism and by the industrialisation process, which is marked with very extensive state interventionism in the economy and in industrial relations. State interventionism implied the construction of or the reorganisation of specific state apparatuses that afforded the state a way to intervene in society. I maintain that, in the field of industrial relations, this became embodied in the state corporatist system. The analysis of the institutions, which were at the heart of this social arrangement -the official trade union structure and the official employers' organisations -, is the concern of the second section. In the third section I examine the main agencies through which

the state exerted control over industrial relations: the Ministry of Labour and the Labour Courts. The section also includes an analysis of the legal regulation to which the individual labour contract and collective bargaining were subordinated. Finally, in the fourth section I discuss the practice of collective bargaining. I show that the development of this form of union-management relationship was very weak in the period prior to 1978. This is expressed in the patterns of union-management relationships and of the bargaining scope that prevailed during those years.

3.1 The Evolution of the Pre-1978 Broader Environment

This section describes the environment within which the pre-1978 industrial relations system was shaped and evolved. There are two aspects that stand out during this period. One is a political environment that is marked by high levels of authoritarianism. This is the subject of the first subsection. The other aspect is the economic development that took place during the period. I argue that the state aimed at developing the country through an industrialisation strategy based on the substitution of imports of industrialised goods. This involved very high levels of state interventionism in the productive activities. This aspect is discussed in the second subsection.

3.1.1 The political environment

The political environment of the years prior to 1978 can be split into three phases. The first ranges from 1930 to 1945, the second from 1946 to 1963, and the third from 1964 to 1977. The first phase is marked by the revolution of 1930 and by the establishment of the 'national development' model. The revolutionary forces under the command of Getúlio Vargas, inaugurated a phase of authoritarian rule – here referred to as Vargas Regime. In that period a state (or authoritarian) corporatist institutional arrangement in industrial relations was set up.

During the thirties the rulers in power were inspired by the Fascist political regimes prevailing in Italy at that time. The leaders of the Vargas Regime assumed that modernisation would be achieved by integrating the major social classes and groups - regional oligarchies, urban employers and employees, the military, the Catholic Church, and the intellectuals - into a broad 'corporatist pact' (Camargo 1992: 33). National development would require restraints on the needs and interests of particular groups and social classes (Cardoso 1978: 112). This type of orientation of the ruling elite led to the social arrangement through which the state could intervene in industrial relations. It implied the reorganisation of employers' and employees' interest associations.

Authoritarianism was intensified in 1937 when Getúlio Vargas inaugurated the 'Estado Novo' dictatorship - that lasted until 1945. During these years state intervention in industrial relations increased considerably. The legal union structure (as well as the legal employers' associations) established in the early thirties by the revolutionary forces was consolidated. It was also during that period that the rules providing for the individual labour contract and for industrial relations in general were established by the state. The statutory regulation was gathered in a comprehensive labour code (issued in 1943) named 'Consolidation of Labour Laws' ('Consolidação das Leis do Trabalho' - CLT). A compulsory system of resolution of labour disputes, embodied in the Labour Courts, was also established. Henceforth the conflicts in industrial relations were to be directed to (and be solved by) the labour justice. The corporatist arrangement was aimed at preventing labour disputes from disrupting the economic activity, as well as from supplying public authorities and managers with a measure of autonomy in handling budgets (Barcellos 1983: 36-54; Erickson 1979: 232).

In 1946 the second political phase, which is generally regarded, in the literature, as 'populism' began (Camargo 1992; Cardoso 1978; Fausto 1995; Fiori, 1986; Ianni

1975; Weffort 1978). This period lasted until 1964. Though democracy was restored, political liberalisation did not entail the elimination of the authoritarian corporatist arrangement in industrial relations (Barcellos et al 1983: 86-129; Füchtner 1980; Erickson 1979: 229; Vianna 1978).

The populist governments sought the support of both unions and the working class in general, through the co-optation of the union leadership, for the furthering of the 'national-development' project. During this period unions sought to win gains by using the tripartite decision-making fora through which they had the legal right to voice their claims and to vote. These were the Labour Courts, the Ministry of Labour and the social welfare institutions (Erickson 1979: 228-229). Unions also exerted pressures over Parliament, mostly through the Brazilian Labour Party (Partido Trabalhista Brasileiro - PTB). By means of this strategy they obtained more frequent wage adjustments, the right to organise official unions in rural areas (until then a right of urban workers' only) and the right of employees to have a thirteenth annual wage (Barcellos 1983: 88-89; Cardoso 1999: 55-56; Ianni 1975: 129-151; Weffort 1978: 17-24). In spite of the favourable political circumstances, especially those existent in the early sixties, unions did not challenge their dependency from the state (Weffort 1978: 19). That is to say, the corporatist arrangement was not questioned.

The third political phase started in 1964 with the establishment of an authoritarian military regime. Under military rule (that lasted until 1984) state intervention in society increased a great deal. The existent political parties were dissolved. From then onwards only two parties were authorised, one for the supporters of the regime, the National Renewal Alliance (Aliança Renovadora Nacional - ARENA), and another for the legal opposition, the Brazilian Democratic Movement (Movimento Democrático Brasileiro - MDB). A number of political and civil rights,

such as the habeas corpus, were cancelled. The military regime instituted repression, persecution and even torture for those who 'crossed the line' (Camargo 1992: 8-9; Fausto 1995: 463-500).

The military was strongly opposed to populist-style policies of co-optation of the working class. National development was furthered by keeping unions under strict control. During the first years of the military regime many trade unions were subjected to interventions from the Ministry of Labour and a number of activists and union directors were either arrested or removed from office. The persecution of leaders and the tightening of control reflect the new orientation of the state towards unions and industrial relations.

The military followed the union regulations introduced during the Vargas regime even more strictly. The right to strike became very restricted and the control of the Ministry of Labour on union internal affairs was stepped up (Mericle 1974: 101-105, 125-127, 129-132, 252-299). Moreover, the power of the Labour Courts' to solve conflicts of interest - especially in wage matters - was eliminated. Furthermore, the formerly established right of workers' to have representatives in the decision-making fora of the Ministry of Labour and in welfare institutions was abolished (Cardoso 1999: 57; Mericle 1974: 101-105, 125-127, 129-132, 252-299). Finally, the military established a strict official wage policy. Unions were excluded from any participation, which previously was granted, in the determination of the periodical adjustments of the minimum wage (Mericle 1974: 101-105, 125-127, 129-132, 252-299).

The period during which government control over unions was the strictest was the phase referred to in the literature as 'Brazilian Miracle' ('Milagre Brasileiro') – between 1969 and 1973. These were the years Brazilian economy grew at the highest rates ever. General Garrastazu Médici then ruled the country. The next government, that

of General Ernesto Geisel (1974 to 1978), initiated a very slow and gradual political liberalisation process ('liberalização lenta e gradual'). Little by little, the opposition began to reorganise and a renewed trade union movement appeared in the most industrialised areas of the country (Fausto 1995: 485-488). This development will be discussed in Chapter Four.

Summing up, the political context of the period prior to 1978 was marked by authoritarianism. The rulers in power were concerned with keeping social peace and class co-operation, particularly in industrial relations. The authoritarian corporatist arrangement entailed the establishment of a number of controls of the state over interest associations. This arrangement lasted intact throughout these years, though the degree of control of the state over workers associations fluctuated. Under the authoritarian political regimes – between 1930 and 1945 and from 1964 onwards – unions were under very strict vigilance, while during the populist phase control was eased, to some extent.

The next subsection is aimed at describing the evolution of the economic environment in the pre-1978 period. It sheds light on the industrialisation process that was at the heart of the economic strategy followed by all governments after 1930.

3.1.2 The economic context

The ruling elite of the thirties believed that Brazil would overcome poverty, achieve prosperity and become more independent from foreign powers by furthering industrialisation (Cardoso 1978: 93-94). Thus, one of the most important national goals became the transformation of the preceding agrarian, export-oriented economy of raw materials and agricultural products into an industrialised one (Camargo 1992: 19; Fiori 1986: 38-52). The industrialisation process was based on a government strategy of substitution of imports of industrialised goods ('substituição de importações') (Baer

1996; Fiori 1986; Furtado 1975; Oliveira 1974, 1977; Rego and Marques 2003; Tavares 1986). Moreover, in the view of the rulers in power, political democracy should be subordinated to the imperatives of economic development (Camargo 1992: 26; Fiori 1986: 42). They believed that the state had to play a leading role by creating favourable social and economic conditions for capital accumulation. This entailed the expansion and rationalisation of public and administrative functions, the creation of economic infrastructure, the regulation of the labour market and the promotion of social peace and class co-operation (Bronstein 1995: 164; Camargo 1992: 24-26; Cardoso 1999: 53-59).

State interventionism in the economy was expressed in a number of ways. The authorities provided incentives (such as tax exemptions) and financial support (such as special lines of credits) for private businesses and regulated the economic activity, through monetary and fiscal policies and the organisation of the stock market. These policies were aimed at stimulating investments of native as well as of foreign multinational enterprises in areas in which the Brazilian economy was most dependent on imports. As industrialisation progressed, the state became itself an entrepreneur. Large state investments, mostly with the support of international funding of the World Bank and of the International Monetary Fund (IMF), were made in the area of physical economic infrastructure such as mining, electricity, transport, telephone, steel, aluminium, chemistry and aeroplane manufacturing (Baer 1996: 267). Government also became a partner of shipbuilding and aeronautics industries (Baer 1996: 256-268; Rego and Marques 2001: 89). Among the most important state-owned enterprises were Fábrica Nacional de Motores, Companhia Nacional de Álcalis, Companhia Vale do Rio Doce, Petrobrás, Rede Ferroviária Federal, Banco Nacional de Desenvolvimento Econômico, Banco Nacional da Habitação, Itaipu Binacional, Embraer.

State interventionism was also expressed in the size of the government in the Brazilian economy, which grew significantly in the period prior to 1978. According to Baer (1996: 94), in 1947 public expenditures, in relation to the GNP, accounted for 17.1 per cent while in 1973, it accounted for 22.5 per cent. The figures are more impressive if we consider some strategic economic sectors. In the area of production of steel, mining and petrochemicals almost everything was in the hands of the state. In the area of the generation of electricity, the government accounted for 80.0 per cent of the sector. Moreover, 74.0 per cent of the 100 largest enterprises were state-owned and 56.0 per cent of the largest banks of the country were also state-owned.

Baer (1996: 79, 394) shows that during the period prior to 1978 the economic policies were quite successful as the Brazilian economy reached 7.5 percent of growth, per year, on average, between 1950 and 1977. The success is also expressed in the structural changes in the economy. We can see, in Table 1 that, during the fifties, the share of the Secondary Sector in the Brazilian GDP overtook that of the Primary Sector. In the seventies the share of the Secondary sector in the GCP further increased while that of the Primary sector further declined.

Table 1: Brazilian GDP per economic sectors, 1950-1970

Year	Primary	Secondary	Tertiary	Total
1950	24.3%	24.1%	51.6%	100.0%
1960	17.8%	32.2%	50.0%	100.0%
1970	11.6%	35.8%	52.6%	100.0%

Source: Baer 1996: 394.

The economic development process involved a growth of foreign indebtedness to finance the imports of oil and intermediary goods necessary for the production of more elaborate industrial products (Baer 1996: 106-110). Most of these loans were

taken by the state. In 1978, around 63.0 per cent of the amount of Brazil's medium- and long-term debts was due by the public sector (Baer 1996: 108). The foreign debt negatively affected the Brazilian economy from the 1980s onwards. This issue I discuss in the next chapter.

Summing up, I have shown that the state played a leading role in conducting industrialisation. This fact is coupled with political authoritarianism, which prevailed during most of the period under consideration. The state became extensively involved not only in regulating the economic activity and supporting private businesses, but also as a direct economic actor. Moreover, state intervention involved the shaping of labour relations by means of a corporatist arrangement. The characteristics of this set up are described in the section below.

3.2 Unions and employers' associations under corporatism

As a reminder to the reader, during the thirties the Vargas Regime replaced the former independent trade union structure and employers' interest associations with a new organisation set up by the state. I assume that this organisation incorporated the characteristics of a state corporatist system – according to the definition outlined in Chapter Two. In the first subsection I analyse the nature of this arrangement. In the second and third subsections I describe the characteristics of the official trade union organisation and the distinctive peculiarities of the official employers' interest associations, respectively.

3.2.1 The corporatist arrangement

In this sub-section I analyse the mechanisms by which the state managed to exert control over the behaviour of interest associations of employers and employees. I assume that this was embodied in the following aspects: (a) the state attributed public

status to the legally recognised interest associations of employers and employees; (b) the officially recognised organisations were granted with monopoly of representation; (c) the official organisations had to perform quasi-public functions; (d) these organisations had authority to regulate non-members and members alike; and (e) the state established constraints over the behaviour of these organisations limiting their autonomy. These aspects are analysed separately below. A summary of the characteristics of the corporatist arrangement can be found in Table 2. I also assume that Brazilian corporatism used to be of an authoritarian type because the control over the internal affairs of the legal representative associations was exerted by the state.

a) Legal recognition and attribution of public status

The rules providing for the union organisation were set down by Decree 19,770, of 1931. In 1943 these norms were incorporated in the labour code, referred to as *Consolidação das Leis do Trabalho* (CLT hereafter). It established that the groups of employers and employees who wish to engage in collective bargaining legally, or appear before the Labour Courts, should first gain the recognition of the Ministry of Labour (Alexander 1962: 81).

Any civil association ('*associação civil*') of employers and employees could apply to the Ministry of Labour to be recognised either as an official trade union ('*sindicato de trabalhadores*') or as an official employers' interest association ('*sindicato patronal*'). For either body to be legally entitled it had to be organised according to standards established in the CLT (Articles 515, 518, 519 and 520 of the CLT). The most important requirements were that these organisations had to state, in their statutes, that they would collaborate with the state in promoting social solidarity. They were also required to refrain from undertaking political party activities. The authorities of this Ministry were empowered to choose among competing groups, if this were the case.

According to Alexander (1962: 81), the custom was to accept the group that had the largest monetary resources or estates and the greatest programme of social services, even though it might have fewer members than a rival group. Once legally recognised the Ministry of Labour specified the jurisdiction of these organisations (Article 520).

Table 2: Dimensions of corporatism expressed in the 1943 CLT

Dimensions	The rules of the 1943 CLT
Legal Entitlement and Attribution of Public Status	<ul style="list-style-type: none"> • Articles 515: set the requirements for interest associations to be recognised • Article 518: establishes that the civil associations, when applying for recognition, had to be accompanied with the statutes of the organisation; the statutes had to include a provision affirming that the interest association would co-operate with government in promoting social solidarity. • Article 519: provides for the criteria for the Ministry of Labour to choose between competing groups; • Article 520: provides for the expedition of the legal entitlement certificate; • Articles 570 to 577: establish the criteria of combination the official interest associations were required to respect; • Article 513: establishes the prerogatives of legal associations: right to represent members before authorities; right to undertake collective bargaining; right to co-operate with state agencies for the study and resolution of problems of the respective categories; right to impose dues to members. • Articles 579 and 580: provide for compulsory annual contribution of members;
Monopoly of representation	<ul style="list-style-type: none"> • Article 516: provides for the monopoly of representation
Performance of quasi-public functions	<ul style="list-style-type: none"> • Article 514: requires representative associations to co-operate with authorities in promoting social solidarity; to keep judicial assistance to members; to promote conciliation in individual and collective labour disputes; and to provide welfare services.
Membership rules	<ul style="list-style-type: none"> • Article 544 provides for the representation of members and non-members alike
Constraints on interest associations (*)	<ul style="list-style-type: none"> • Intervention in union internal affairs • Constraints on demand-making activities

Source: Consolidação das Leis do Trabalho (CLT).

(*) These issues are further broken down in Table 3.

The legally recognised interest associations of employers and employees were granted some prerogatives (Article 513). First they were empowered to represent their members' collective and individual interests before administrative and judicial

authorities. Second, once legally entitled, they had the right to undertake collective bargaining. Third, they had the right to co-operate with state agencies with the view of studying and solving problems of the respective categories. And, fourth, they had the right to impose dues to their members.

Another privilege granted by the state to the legally entitled interest associations was the compulsory tax ('imposto sindical'). All employers and employees were obliged to pay to the respective legal representative association an annual contribution, whether they were members or not. For employees it was an amount equal to one day's work while, for employers it corresponded to a proportion of the capital of the firm (Articles 579 and 580). Until the late seventies this used to be the major source of income of trade unions (Mericle 1974: 114). The dues from the associated members, as well as rents from acquired estates and donations (Article 548), used to be secondary sources of income. The legal organisations were prohibited to undertake 'lucrative economic activities' (Article 564). This means that unions and employers' associations were forbidden to set up firms with the purpose of selling goods or services or to have shares in enterprises (Nascimento 1991b: 206).

In the early seventies the legal interest associations created an additional source of income: the 'social contribution' ('contribuição assistencial'). On the union side it was a special discount taken from the workers' paycheques on the first month of the annual wage increases which was decided upon by employees themselves at their assemblies (Mericle 1974: 113). As with the union tax, all workers in the jurisdiction were obliged to pay the 'social contribution', not only union members. The 'social contribution' could be included either in a collective agreement or in an arbitration award.

A further advantage granted by the state to legal interest associations was the right to define the representatives of the union and of employers' associations in the tripartite official fora. These organisations had a seat in the Labour Courts (Article 647 of the CLT), in the position of labour judges ('vogais') - which was 'perceived as an important avenue of career advancement by many labour leaders' (Mericle 1974: 66). Tripartite bodies were also set up in the Ministry of Labour. This was the case of several permanent commissions, such as the Minimum Wage Commission (Articles 87 to 111 of the CLT), the Union Tax Commission (Articles 595 to 597 of the CLT), as well as *ad hoc* working groups. In all these bodies, representation was shared by an equal number of employers and employees apart from representatives of the state. Tripartite councils also governed the official Time of Service Guarantee Fund (Law 5,107 of 1966) the retirement and social welfare institutes (Barcellos 1983: 40, 133-140; Nascimento 1991b: 122-123; Schmitter 1974: 125).

b) Monopoly of representation

The recognised interest associations of employers and employees were granted the monopoly of representation within a given jurisdiction (Article 516). The state prevented rival groups of workers and of employers from disputing the authority of the official bodies to collectively represent their members before state agencies or before one and another.

c) Performance of Quasi-Public Functions

The legally entitled interest associations were required to perform a number of quasi-public functions, referred to as duties of the legal interest associations ('deveres dos sindicatos'). According to Article 514 of the CLT, the legal associations were: 1) to co-operate with public authorities in promoting social solidarity; 2) to keep judicial

assistance departments for their members; 3) to promote the conciliation in collective disputes; 4) to provide for welfare services. Trade unions were also required to establish consumer and credit co-operatives for their members, as well as schools (Alexander 1962: 66-67). These rules indicate that the legal representative associations were not free to establish their own objectives; rather they were constrained to act according to state dictate.

d) Membership control

As regards union membership, the law established that the association of an individual to a union or an employer's association was free. No one was obliged to associate and no regular employer or employee could be impeded to be associated to a legal representative association (Article 544 of the CLT). Despite leaving membership free, both the annual compulsory contribution of individual employers and employees to the official interest associations, as well as the terms set in multi-employer level agreements (or arbitration awards), were to be applied to every employee regardless of membership (Articles 579 and 611).

e) State corporatist demands and controls

Another important aspect of the corporatist arrangement was the set of controls by which the state managed to intervene in the affairs of legal interest associations (Table 3). These were the mechanisms by which the state had the power to ensure the compliance of the interest associations to public policies until 1988. We can see that the control of the behaviour of the interest associations was directly exerted by the state – which is a key characteristic of an authoritarian type of corporatism. It should be pointed out that these constraints were especially used to control official employees'

representative associations. This is why the focus of this section is placed on trade unions.

Two types of controls were exerted by the state: (1) intervention in union internal affairs and (2) constraints on the demands that unions could make (Table 3). Intervention in union affairs entailed: (a) restraints on union activities and (b) on union leaders. The first sub-group included (a-1) state supervision over the uses of union revenues. According to the CLT (Article 549), the 'sindicatos', federations and confederations could not use their incomes at will. The financial resources of licensed interest associations were to be applied according to the form provided by the law. That is to say, the official organisations were required to spend their revenues in accordance with the public functions they were required to perform. Once a year the 'sindicatos', federations, and confederations were to submit the following year's budget for approval by the Ministry of Labour (Article 550). Moreover, the regional departments of this Ministry were in charge of checking union daybooks with the systematically registered financial activities (Alexander 1962: 84-85). The first subgroup of controls included also (a-2) the prohibition for unions to undertake political propaganda of 'incompatible ideologies to the interests of the country', as well as to engage in political party activities (Article 521).

As regards to the control of union leaders (b), the state was empowered to seize union headquarters and to replace elected union officials by government appointees if they failed to comply with the law (Mericle 1974: 98). The officials that violated the regulations were liable to punitive measures such as fines, suspension from office, or dismissal (Article 553). In the case of dismissals, the government was entitled to appoint another person to administer the union for a 90-day period, at which time new elections were to be held (Article 554).

Table 3: Types and sub-types of constraints on trade unions

Type	Subtype	Actual Mechanisms
1. Intervention in union internal affairs	a. Controls on union activities	a.1 Use of union revenues were to be approved by the Ministry of Labour
		a.2 Unions not allowed to undertake political propaganda and to engage in political activities
	b. Controls on union leaders	b.1 Seizure of union headquarters and union funds
		b.2 Election eligibility
2. Constraints on demand-making	c. Kind of demands	Collective bargaining clauses should not contradict regulations
	d. Kind of demand making activities	Limits to the right to strike and lock out

Note: this scheme is a combination of Mericle's (1974) and Collier and Collier's (1979a, 1979b) classifications.

The second sub-group of controls over union internal affairs included controls on union leaders (b). The most powerful government weapon was, in the view of Mericle (1974: 99-100), (b-1) the seizure of union headquarters and union funds. The threat of police invasion of unions – not actual intervention –, in order to arrest labour leaders, was, according to him, a very effective way of discouraging union autonomy. This type of intervention could be launched if the leadership was too outspoken in their criticism of government policies, if workers' representatives were guilty of financial corruption or illegal political activities. They could be arrested on a charge that was legally sanctioned. Actual seizure of union headquarters and imprisonment of union leaders was, however, seldom invoked. Widespread intervention in a large number of unions occurred only in 1947 and in 1964. This was most extensive in 1964, when in some sectors such as in Agriculture and in water and air transport, the state intervened in almost all local unions. In some cases the dismissal of union officials and the licenses of the 'sindicatos' were revoked and the representation system in the corresponding jurisdiction was totally reorganised by the federal authorities (Mericle 1974: 104-105).

The state was empowered to withdraw the license of a given group if it failed to comply with the rules established in the CLT. In case the legal recognition was removed, the representative association would lose its privileges, financial resources and power to represent its associates before state agencies and employers (Alexander 1962: 84).

A further type of control on union leaders was their eligibility for standing for election (b-2). The government was empowered to prevent 'undesirables' from being elected. According to Mericle (1974, 106), the law was 'sufficiently vague and comprehensive so that almost any union leader out of favour with the Ministry of Labour could be prevented from standing for elections'.

The second type of state control over unions, the constraints on demand-making, included: (c) constraints on kinds of demands; and (d) constraints on kinds of demand-making activities. There were few restraints in the legislation on kinds of demands. The CLT established only that collective bargaining provisions were not to overrule government regulation relative to actual economic and wage policies (Article 623).

With regards to kinds of demand-making activities, the state set restraints on the right to strike and to lock-out. During the 'Estado Novo' period (from 1937 to 1945) these sorts of actions were viewed by the government as 'anti-social' behaviours and were strictly prohibited (Decree 1237 of 1939 and Decree 6596 of 1940). In 1946 the right to strike was established in the Constitution and the specific regulations were defined by Decree-law 9070, of 15 March 1946 (Mericle 1974: 128). It required the parties to submit their disputes to the Ministry of Labour and to the Labour Courts for conciliation or arbitration before calling a strike. Moreover, it outlawed strikes in fundamental activities such as agriculture, hospitals, as well as light, gas and water industries. The Ministry of Labour was empowered to add other economic sectors at will. Finally, the federal and state governments were empowered to declare any strike

illegal without due process of law on the grounds that workers were disturbing social peace (Mericle 1974: 128-129).

Between 1946 and 1964 the populist governments became more permissive in the application of the law and strike activity grew considerably (Mericle 1974: 129). However, during the military regime the controls over strikes were tightened again (Law 4330 of 1964). Unions were only permitted to organise strikes to demand salaries (1) when employers were behind in payments, and (2) when employers were not paying wages declared in a court decision (Mericle 1974, 131). Industrial action was outlawed whenever it was concerned with political, social, or religious issues, as well as when it was carried out in solidarity to other categories. These terms contrast with the previous regulations in that they allowed strikes over interest disputes, although with the permission of the Labour Courts.

In addition to the aforementioned restraints, the military regime hindered stoppages by fixing a series of bureaucratic steps for strikes to be declared and by making the involvement of the Ministry of Labour and the Labour Courts mandatory. First, strikes had to be authorised by a general membership meeting of the union. Second, the decision to call a strike had to be taken in secret ballots presided over by the regional Public Attorney. Third, the result of the ballot had to be sent both to the regional agency of the Ministry of Labour and to the employers. Fourth, employers were given a deadline of five days to find a solution to the conflict. Fifth, the authorities of the Ministry of Labour, with the assistance of the Public Attorney, had to mediate the dispute as soon it was decided (Mericle 1974: 129). This set of steps narrowed considerably the opportunities of the parties to act at will.

Deviant behaviour was severely punished. Among the sanctions were: admonitions, suspensions and summary dismissals of union leaders from office. At the

same time a set of positive incentives were granted to the leaders who behaved accordingly. These included job guarantees, normal payment of wages, and the prohibition of hiring new employees in substitution for strikers.

Summing up, the type of state-interest group institutional arrangement set up in Brazil could be characterised as an authoritarian corporatism. The state undermined the function of representation of the legal interest associations by controlling their actions, by co-opting their leaders and by insulating them from the pressures of their members. In other words, it undermined the autonomy of official representative organisations. Under state corporatism the representative associations were required primarily to fulfil public functions that weakened their capacity to be responsive to the needs and expectations of members. A distinctive feature of Brazilian corporatism was that the control over the representative associations, and especially over trade unions, was exerted directly by the state, which is an aspect that characterises the authoritarian nature of this arrangement. In the section below I provide an overview of the characteristics of the Brazilian official trade union organisation.

3.2.2 The trade union organization

Employees and employers were not free to choose how they were to be organised. The official representative associations had to be set up according to the criteria of combination provided by the master plan of the Ministry of Labour (Alexander 1962: 81). According to the CLT, unions were to represent workers in identical, similar or connected trades in a specific geographic jurisdiction (Articles 570 to 577). They were to be organised on either a craft or industrial basis, though the predominant form was industrial (Mericle 1974: 70).

The form of combination of employees adopted in Brazil in the thirties produced a rather fragmented union system and reduced their potential strength (Mericle, 1974: 70-71). Within a given economic sector of a given municipality, and even within a given enterprise, there were frequently several unions representing different occupational categories. For instance, according to Alexander (1962: 80), there were no provisions in the CLT for a garment union encompassing a number of specialised groups within the clothing industry. The law rather provided for separate unions for shoemakers, men's shirt makers, men's tailors, umbrella workers, pocketbook makers, button workers, hatters, and women's tailors.

At the bottom of the trade union structure were the trade unions ('sindicatos de trabalhadores'), at the intermediate level were the federations ('federações') and at the top were the confederations ('confederações'). In most cases, the jurisdiction of the official unions ('base territorial') was circumscribed to a single municipality or a small group of municipalities within the same region. However, at the discretion of the authorities, they could cover an entire state, several states and even the entire nation. There were no legal regulations providing for the organisation of employees at the workplace.

The federations, the medium level organisations, were designed to represent workers predominately at the state-level, in a specific branch of industry, commerce, services and agriculture. The Ministry of Labour could however authorise the combination of unions of different branches of the economy and even from different states, and in exceptional cases at the level of the entire country to form a single federation (Mericle 1974: 71-73). The federations were formed by no fewer than five unions of a same branch of economic activities. The board of directors had to be elected

by the representatives of the associated unions. Each union had one vote, regardless of its size (Mericle 1974: 72).

The official confederations were to be created by no fewer than three federations. The legal recognition of the confederations had to be made by the President of the Republic. The administration and the election of the board of directors of the confederations followed the same principles of the official federations.

There were no legal provisions for the establishment of a general confederation of labour. Instead the CLT provided for the establishment of several confederations, combining employees from different sectors of the economic activity. Despite government opposition, some abortive attempts were made to set up an employees' confederation in 1946, and again in the early sixties (Alexander 1962: 80).

Brazilian unions were however unable to effectively co-ordinate their activities at the inter-union level and from the top to lower-level organisations. The top-down co-ordination was difficult because confederations and federations had no authority over local union activities. Within the official trade union structure the locus from which power was exerted was the local union (Mericle 1974: 76-78).

In theory, employer's official representative associations, the 'sindicatos patronais', were also to be shaped according to the same principles and rules. Nevertheless, in practice, management organisation acquired some distinctive features in relation to union organisation. The examination of this aspect is the subject of the next section.

3.2.3 Employers' Organisations

According to the CLT the legal representative associations of employers and employees were to be parallel organisations, so that for every legal union (or federation or confederation), in a same geographical jurisdiction, there would be a corresponding

employers' association. Nevertheless, in contrast to workers, state control was more lax on the employers' side (Alexander 1962: 63, 79). This produced some distinctions between the two organisations. First, employers were able to maintain a system of unofficial private organs, which ran parallel to the recognised associations (Mericle 1974, 78). For instance, in the state of São Paulo, industrial entrepreneurs were represented both by the official Federation of Industries of the State of São Paulo ('Federação das Indústrias do Estado de São Paulo' - FIESP) and by the unofficial Centre of Industry of the State of São Paulo ('Centro das Indústrias do Estado de São Paulo' - CIESP). Employers maintained their civil associations because they resented government control and feared that they could not discuss their affairs in the official organisations. In the view of Alexander (1962: 77), during the fifties the civil associations became more powerful than the official associations.

A second distinction was that employers were able to resist fragmentation, organising themselves in all-inclusive federations. In some branches of the economic activity they managed to form official national-level associations that became very powerful (Mericle 1974: 78-79). These organisations frequently violated the master plan provided by the CLT. According to Alexander (1962: 61-62), employers managed to form strong state and national-level federations and confederations in the manufacturing industry and in the area of commerce.

Third, the power on the employers' side was concentrated in the federations and confederations rather than on local associations as occurred in the case of employees. Individual employers were very dependent on the federations, bypassing frequently their own local official associations (Mericle 1974: 79)

Employers' associations offered their members different types of services. These included the assistance in legal issues, the handling of grievances and the preparation of

briefs for negotiations. They were also involved in organising vocational training and social services for employees (Mericle 1974: 79-80). For instance, the Confederation of Commerce ran, respectively, the SESC ('Serviço Social do Comércio'), the social welfare institution, and the SENAC ('Serviço Nacional de Aprendizagem Comercial'), the vocational commercial training institution. The Confederation of Industry ran the SESI ('Serviço Social da Indústria'), the social welfare institution, and the SENAI ('Serviço Nacional de Aprendizagem Industrial'), the vocational industrial training institution (Alexander 1962: 79).

Summing up, in contrast to workers, during the period prior to 1978 employers managed to organise powerful intermediate-level representative associations (the federations) and to keep a measure of independence from the state. In contrast to union organisation, the locus of power of employer's organisation was the federation rather than the local employer's association. Another aspect is that managers set up welfare services and training institutions, which could be regarded as an expression of their paternalist orientation towards their employees.

The establishment of the corporatist arrangement implied the reorganisation of the state apparatus and the establishment of statutory regulations of employment. The Ministry of Labour was the state agency by which the authorities exerted control over the legal interest associations, as well as the supervision of workplaces. The Labour Courts had to perform the function of resolution of conflicts. The protection of employees became the concern of the state in exchange for the constraints placed on union autonomy. This is expressed in the extensive set of regulations over the employment relationship established by the state. Corporatism also granted the official interest associations the right to collective bargaining. These aspects will be focused in the next section.

3.3 The regulation of industrial relations under state corporatism

I broke down this section into four sub-sections. In the first and second I analyse the basic structure and functions of the Ministry of Labour and of the Labour Courts, respectively. The third I am concerned with the substantive employment rights - which were established by the state - that shape the individual labour contract. And, finally, in the fourth I analyse collective bargaining regulations.

3.3.1 The Ministry of Labour

The Ministry of Labour, Industry and Commerce (Ministério do Trabalho, Indústria e Comércio) was one of the first ministries set up by the Vargas regime in 1930. According to Alexander (1962: 88) it became one of the most powerful state institutions. It was given extensive powers to control trade unions and employers' organisations. It also played a role in settling disputes and in enforcing labour laws. The 'Departamento Nacional do Trabalho', the National Labour Department, was at the heart of the Ministry. It supervised the Regional Delegate's offices of the Ministry, collected statistics, handled the recognition of workers' and employers' organisations, and supervised the elections and finances of the official associations.

Regional Delegate's Offices of the Ministry of Labour, Industry and Commerce ('Delegacias Regionais do Trabalho' - DRT) carried out the control of unions and the labour inspection function in the different regions. The control function entailed the monitoring of union elections, which included the eligibility of candidates that stand for election, the auditing of financial records and proposed budgets, and the ruling on local union recognition and affiliation with federations. In case of violations of the law, the DRTs were entitled to apply sanctions (Mericle 1974, 83).

The DRTs employed a number of inspectors to supervise the enforcement of protective workplace, wage and working-hours legislation, as well as of rules

established in collective agreements (Smith 1993: 52). Despite being understaffed, the inspectors played an important role in ensuring that employers met legal and contractual obligations of job security, fringe benefits, protection from unhealthy and unsafe working conditions, and even pay increases. Mericle (1974: 82) states that workers were often ignorant of their rights or afraid to initiate grievances in the court system to claim them. The labour inspectors filled a void left by the lack of union representation at the workplace.

Other important functions of the DRTs were the issuing or reissuing of workers' identification books (called 'carteiras profissionais') and the provision of voluntary conciliation services. Dispute resolution was carried out at 'round table' meetings. Although not provided for in the system of labour jurisprudence, it was a procedure by which the parties used to settle their disputes (Alexander 1962: 90). In the post-1964 period the conciliation function was undermined because the attendance to these sessions was not compulsory and employers often ignored them (Mericle 1974: 83).

Summing up, the Ministry of Labour played a strategic role in making the corporatist arrangement effective. It was through this institution that the state exerted control over the legal interest associations of employers and employees and performed a role in workplace inspection. Despite having also a role in dispute resolution, the most important function for handling conflicts was given to the Labour Courts. The structure and the functions of this institution are described in the next sub-section.

3.3.2 The Labour Courts

The role of the tribunals was to conciliate and arbitrate, as well as to interpret and to apply the law in individual and in collective disputes. The handling of grievances, which in pluralist industrial relations systems is typically a concern of unions and employers, was in Brazil replaced by the tribunals.

The Labour Courts were granted extensive normative powers by the Constitution of 1946. This means that the tribunals were empowered to decide disputes of rights as well as disputes of interest (Mericle 1974: 83; Alexander 1962: 61, 98; Sitrângulo 1978: 27-33). After the military coup of 1964, the normative power in ruling on wage matters was eliminated. Control of all wage increases was rather taken over by the Ministry of Finance (Mericle 1974: 221; Sitrângulo 1978: 26).

The Labour Courts system was a three-tiered organisation. At the lowest level were the Courts of Conciliation ('Juntas de Conciliação e Julgamento'). The 'Juntas' were first-instance courts for the handling of individual grievances ('reclamações'). The cases filed in the 'Juntas' were complaints that arose from violations of the labour law and legal collective contracts (Mericle 1974: 84). At the intermediate level were the Regional Labour Tribunals ('Tribunais Regionais do Trabalho' - TRT). Their major functions were: (1) to decide on appeals of an employee's individual grievances settled in the Courts of Conciliation; (2) to conciliate and to arbitrate collective grievances and disputes both over rights and interests. The highest instance of the Labour Courts was the Supreme Labour Court ('Tribunal Superior do Trabalho' - TST). The TST was located in the federal capital and performed three main functions: (1) it was the final court appeal for individual grievances; (2) it was the final court for collective disputes settled in the Regional Labour Tribunals; and (3) it was the court of first instance in national collective disputes (Mericle 1974: 86-87).

Employers and employees were free to appeal against decisions made at any of the instances, for all legal cases, to the Supreme Federal Tribunal ('Supremo Tribunal Federal' - STF). The TST was rarely used for the resolution of labour disputes. The tribunal only accepted cases that involved an interpretation of the law on fundamental legal issues (Mericle 1974: 87).

The 'Public Labour Ministry' ('Ministério Público do Trabalho') was the link between the Ministry of Labour and the Labour Courts (Articles 736 to 752 of the CLT). The officers of this ministry, the Public Labour Attorneys ('Procuradores da Justiça do Trabalho'), had a dual function. First, they were judges in the panels of the higher levels of the Labour Courts. Second, they were the representatives of the Ministry of Labour within the tribunals of labour. The Public Labour Attorney was required by law to give opinions, to report back to the Ministry of Labour, to ensure decisions taken by the tribunals were respected, to appeal decisions to higher levels of the courts and to function as attorneys. During the authoritarian political regimes (from 1930 to 1945 and from 1964 until 1985) the executive branch of the government used these public attorneys to control the actions of the Labour Courts (Smith (1993: 53).

Since its creation, at all levels the courts were tripartite with parity representation of employees and of employers. Cases were decided by a panel of judges consisting of a group of career judges, who represented the state, and temporary judges nominated by legally entitled worker's and employers' interest associations (Smith 1993: 52; Mericle 1974: 84). The temporary judges, called 'class representatives' ('vogais'), were chosen among officials of legal unions (and of legal employers' associations) and were appointed for three-year terms.

The Brazilian system of resolution of labour disputes was compulsory by nature. In the course of collective labour disputes, whenever the parties were unable to reach an agreement through direct negotiations or by means of conciliation carried out by the Ministry of Labour, they were required to submit the case to the regional tribunal (Sitrângulo 1978: 13). In case of strikes, Law 4330 of 1964 required the Labour Courts, to intervene in the dispute if the Ministry of Labour failed to solve the conflict (Sitrângulo 1978: 19).

The initiation of a court case occurred when a list of union demands, approved in a membership meeting, was filed in the tribunal. The court then sent a copy of the list to the correspondent employers' association along with a notification of the date of the conciliation hearing (Mericle 1974: 198). 'At the conciliation hearing, the parties [were] given a chance to argue their cases and express their views on how the matter might be settled' (Mericle 1974, 198). According to Mericle (1974: 198), in these sessions the discussion of the parties was directed more at the judge than at each other. However it was an orientation of the tribunals to give the parties a chance to reach an agreement on their own before the judge made his or her conciliation proposal. Moreover, the hearing could be 'postponed to give the parties a chance to bargain directly, to formulate counter-proposals, or to allow the judge time to formulate his or her conciliation proposal' (Mericle 1974: 199). If the parties managed to settle their dispute on their own or on the basis of the conciliation proposal, they were required to submit the agreement to a regular full court session for approval ('homologação'). The same author points out that, in the early seventies, agreements were routinely approved unless they contained provisions that violated the law.

When the parties were not able to reach an agreement in the conciliation phase the case was submitted to the regional tribunal's arbitration. The first step was a hearing at which the parties could 'present further data, call witnesses, and summarise their cases in a written statement' (Mericle 1974: 199). The next steps were: (1) the public attorney of the labour justice analysed the case with the purpose of clarifying the legal issues and recommending a solution; (2) the case was then presented to the full court; (3) a second judge presented his opinion of the case; (4) the parties were then allowed to respond verbally to the presentations of the judges; (5) the full court voted on the issue and their decision was binding. The parties, if dissatisfied with an arbitration award,

were free to appeal to the Superior Labour Court ('Tribunal Superior do Trabalho' – TST). According to Mericle (1974: 85, 97), in 1971 most of the cases – 97 per cent of the total - were solved at the regional level.

Whenever a collective labour dispute was transformed into a court case, it was labelled 'collective dissent' ('dissídio coletivo'). If the parties settled an agreement during the conciliation phase, it was binding after the approval of the tribunal. It was then labelled 'approved agreement' ('acordo homologado'). If the judges decided the case in arbitration sessions, it was labelled 'arbitration award' ('sentença normativa').

Summing up, the Labour Courts performed the function of resolution of labour disputes as the state made the involvement of the tribunals in union-management conflicts compulsory, especially in the case of strikes. This was a way to prevent conflicts from getting out of control. The access both of official unions and management associations to the tribunals was eased. Any party at any time was allowed to apply to the Labour Courts for the resolution of conflicts of right or of interests. The judges in the tribunals were required to act as conciliators before sending the cases to higher instances. The approval of the agreements set at the conciliation phase or the arbitration awards had to be based on the statutory provisions of the CLT, aimed at regulating the employment relationship. An overview of this aspect is given in the next sub-section in which the focus is placed on the rules that regulate the individual labour contract.

3.3.3 The statutory regulations of the employment relationship

Another feature of the old Brazilian industrial relations was the weight of statutory regulations of the employment relationship. The CLT provided for a number of aspects, such as wages, working hours, leaves, health and safety standards, as well as special rules for different categories of workers, such as women, minors and for employees in 13 named industries or categories. The individual labour contract was

subordinated to these rules. Instead of being the outcome of collective bargaining in Brazil, the regulation of the employment relationship was provided for by the state.

The basic employment rights were established in chapters II, III and IV of the CLT. The most important ones are displayed in Table 4. The 1943 CLT established the individual employment rights of the employees in urban areas only.

Table 4: Basic statutory employment rights established in the 1943 CLT

General rules for the protection of labour
<ul style="list-style-type: none"> • Professional identification (identification workbook, the registration of rights of employees` in these workbooks, books of registration of employees in firms) • Duration of work (working hours, intervals and nocturnal work) • Minimum wages • Paid vacations • Health and safety at work
Special rules for the protection of labour
<ul style="list-style-type: none"> • Special rules for specific occupational categories (bank employees, rail workers, teachers, mining workers, ship and port workers, journalists and others) • Protection of female workers • Protection of minors
The individual labour contract
<ul style="list-style-type: none"> • General rules for the establishment of the individual contract • Remuneration • Changing the contract • Suspensions and interruption of the contract • Termination of the contract • Advance notice of termination of contract • Permanent tenure rights • Individual contract under extraordinary circumstances

Source: Consolidation of the Labour Law - CLT

The law required formally contracted employees to have compulsory identification books ('carteiras de trabalho'), which were issued by the Ministry of Labour (Articles 13-56). The CLT established that in these identification books should be recorded the personal information of employees, the employment history, the history of work-related injuries, the salary history, the promotions, the wage adjustments and other secondary aspects.

The key rights of employees set in the CLT were, first, the minimum wage (Articles 76-128) that established the floor of remuneration of all formally contracted workers. It also established that the government would periodically review, through a special law, the values of the minimum wage. Second, it established the working week, working hours and the payment of overtime hours (Articles 57-75). The law fixed the 48-hour working week, the eight-hour working day, and the length of overtime hours (maximum two hours). It also established that the payment of overtime would be 20 per cent over that for normal working hours. Third, the CLT established an annual 30-day paid vacation. Fourth, since 1962 workers were granted the right to receive a thirteenth annual wage. Smith (1993: 53) points out that the level of wages and differentials by skill and occupation were left to the employer or to collective bargaining to decide.

The CLT also provided for special rules for the employment of women and minors, as well as for other specific categories of workers such as journalists, teachers, bank employees and others. As regards to the individual labour contract itself, the CLT provided for remuneration (Articles 457-467), for alterations in the contract (Articles 468-470), suspensions and interruptions of the contract (Articles 471-476), termination of the contract (Articles 477-486), advance notice of termination of contract (Articles 487-491), permanent tenure rights (Articles 492-500), and work under extraordinary circumstances (Articles 501-504). The tenure right entitled workers that served the same employer for more than ten years to have job stability so they could henceforth not be dismissed unless they were guilty of a serious misdemeanour (Mericle 1974: 120). In 1966 the military government replaced this right with the Time of Service Guarantee Fund ('Fundo de Garantia por Tempo de Serviço' - FGTS) - Law number 5107. The principal modification, relative to the previous provisions, was that under the FGTS system workers could be fired without court hearings to prove that the employees

committed serious offence (Mericle 1974: 123). The FGTS system also eased the dismissals of employees, by reducing the costs of firing. According to Camargo (1996: 22-23) and Mericle (1974: 125-127), by easing dismissals, managers had a means for lowering the wages of the workforce as a fired worker could more easily be replaced with another at lower remuneration.

The minimum wage was one of the key statutory regulations. It was introduced on the first of May 1940 and then incorporated into the CLT in 1943. According to the CLT (Articles 76-128), every regular worker had the right to be paid no less than the amount established in the legislation. It was conceived to be the lowest amount to be paid to an adult worker, without distinction of sex, for a normal working day, and had to be enough to guarantee her or his needs in terms of food, housing, clothing, hygiene and transport. This goal was never achieved.

The CLT provided for the adjustment of the minimum wage to variations of the cost of living. It established that it was to be reviewed every three years and the size of the adjustment was to be fixed by special legislation. In practice, the period of adjustment was made at irregular intervals between 1946 and 1964 and there was no systematic policy followed to determine the size of real increases (Mericle 1974: 252). For instance, after 1943, it took eight years for a law, fixing a new value, to be issued. Between 1954 and 1960 the government established a new value every two years. After that (until 1979) new values were established at an annual basis (Barcellos et al. 1983: 110-117). The Labour Courts ruled on thousands of wage adjustments in the periods during which the government failed to establish new values. According to Mericle (1974: 252), the government allowed judges to establish their own criteria to determine wage increases. Their decisions tended to reflect the individual circumstances of the wage disputes.

In 1965, the government established a comprehensive wage policy (Law 4725). The Finance Ministry would henceforth define the size of wage increases. Labour Court discretion on the subject was curtailed. All wage increases granted by the tribunals were to be computed according to a formula provided for by the Finance Ministry (Mericle 1974: 219, 226-227, 252-255). Through this arrangement the government was able not only to control the minimum wages, but also to control 'the general wage level and the structure of relative wage rates' in the economy (Mericle 1974: 254).

The statutory employment rights in general undermined, to some extent, managers' prerogatives by establishing the conditions for the use of labour. Nevertheless, they left considerable room for enterprise regulations to be decided upon, unilaterally, by management. Apart from the cases regulated by the law, firms were entitled to decide on issues related to hiring and firing, discipline and promotion, job classification and task allocation (Noronha 1998a: 218).

The rules set by the law could be changed by judicial decisions or by collective agreements. Judges and the parties to the negotiations were also allowed to regulate aspects not already defined by the law. It was ruled out for judges and to the parties to the negotiations to establish employment conditions below the legal standards (Mericle 1974: 200). Collective bargaining and Labour Court decisions were to supplement rather than to replace the legal individual employment rules.

Summing up, the set of individual employment rights established by the state was very extensive in Brazil. These regulations may be seen as a substitute for the lack of negotiations. Since representative associations were too weak under the authoritarian corporatist system, workers had to rely on the state and not on unions to guarantee and even to improve their rights. Nevertheless, some room for independent collective

bargaining was left by the corporatist system. The analysis of the legal regulations regarding this aspect is the concern of the next section.

3.3.4 Collective bargaining regulations

Independent collective bargaining, also referred to as direct negotiations in this thesis, was first recognised as a legal right in the Constitution of 1934. The specific rules regulating this aspect were established in chapter VI of the 1943 CLT (Articles 611-625). The focus of the bargaining regulations was placed on collective agreements ('contratos coletivos de trabalho') rather than on the negotiation process. Rules encouraging this practice - such as the 'duty of bargain', the equivalent to an unfair labour practice charge for failure to bargain, and a list of compulsory bargaining issues - were lacking in the CLT. The only options available for unions in the case of the employers' reluctance to negotiate were the request of a conciliation session in the Regional Delegacy of the Ministry of Labour, or the initiation of a court case. On the employers' side, the only incentive for them to bargain was to avoid having to face compulsory arbitration in the courts (Mericle 1974: 200).

The agreement, or 'collective contract' ('contrato coletivo de trabalho'), was defined by the 1943 CLT as 'the normative agreement settled by two or more trade unions and employers associations fixing conditions that regulate individual labour relations in their respective circumscription' (Article 611). It established that negotiating a collective agreement was a prerogative both of the legal trade unions and of legal employers associations.

The 1943 CLT established that the state could intervene in the results of the negotiations and define the groups of workers that would benefit from the agreed terms. First, apart from requiring the agreements to be written, formally signed by the representatives of the parties, and to be registered in the Regional Labour Offices, the

law established that they had to be approved by the authorities. This gave the Ministry of Labour the chance to intervene in the determination of the terms of the agreements if it desired to do so. Although we have no evidence on the extent of this, we could infer that if the agreement provisions did not meet the spirit of the CLT, they were likely not to be approved by the authorities. Second, the terms of the agreements were valid only for the signatory union members. However, they could be extended to the rest of the employers and employees of the respective circumscription at the discretion of the authorities of the Ministry of Labour (Cabeda 1978: 89-121; Magano 1972: 29-32).

The 1943 legislation was revised in 1967 (Decree-Law 229). The new regulations reduced, to some extent, the intervention of the Ministry of Labour in negotiations. First, it was no longer made mandatory that the Ministry of Labour approve directly negotiated agreements. The law rather required that the agreements be registered in the files of the regional delegate's office of this Ministry (Magano 1972: 29-32; Mericle 1974: 244). Second, the terms of the agreements were extended to the entire category of employees that the legal union represented, not only to signatory union members. In contrast to the legislation prior to 1967, the extension of the negotiated rules was no longer to be subjected to the discretion of the authorities (Ribeiro 1970: 25-31, 59-80).

The 1967 regulations allowed the parties to negotiate multi-employer level as well as firm-level agreements (Articles 611 and 618). In the first case the settlements are called 'collective conventions' ('convenções coletivas de trabalho') and in the second, they are referred to as 'collective agreements' ('acordos coletivos de trabalho'). The law also established that if the provisions of 'collective conventions' were more favourable than those set in 'collective agreements', the terms of the former would

prevail over the latter (Article 620). In other words, the firm-level settlements were designed to improve the conditions set in multi-level arrangements.

An important principle defined by the CLT was that collective bargaining arrangements were not to overrule the individual statutory employment rights or the official wage policies (Articles 619 and 622). The function of collective bargaining was to establish wages and other working conditions above the legal minimum guaranteed by law (Mericle 1974: 200; Nascimento 1991b: 328-329). Apart from these limitations, the labour contracts could cover any of the matters specified in the law or any issue the parties might have chosen (Mericle 1974: 201).

In case of a breakdown of the negotiations, or in case of one of the parties refusing to negotiate, the law established that the demanding groups should apply to the regional office of the Ministry of Labour (Article 616). If the mediation of the representatives of the Ministry failed to solve the dispute, or if the refusal to negotiate of one of the parties persisted, then the other party was allowed to file the process in the Labour Courts.

The state corporatist system afforded collective bargaining a supplementary role in the regulation of industrial relations. It was envisaged as a means to improve the legal standards or create new rules, providing they were compatible with the spirit of the CLT. Nevertheless, despite having been set as a right of legal unions, the authoritarian corporatist arrangement undermined the opportunities and the practice of collective bargaining. This aspect is analysed in the next section.

3.4 Collective Bargaining under state corporatism

In this section I describe the characteristics of the practice of bargaining between 1930 and 1978. The focus is placed on the form of the union-management relationship, the subject of the first sub-section, and on the scope of the agreements, the concern of

the second sub-section. The label collective bargaining encompasses independent bargaining and court cases. Court cases were treated as collective bargaining since they are part of the process of labour disputes and since, within the tribunals, the parties were allowed to undertake negotiations. Independent bargaining includes the negotiations in which the state does not interfere, or in which it interferes to a lesser extent (the mediation sessions in the regional offices of the Ministry of Labour). This type of case is here also referred to as direct negotiation. Court cases include the understandings in which the Labour Courts becomes involved, either by means of conciliation or by arbitration.

I would like to stress, at the outset of this section, that there are very few studies and reliable empirical data on the practice of bargaining during the period prior to 1978. This fact imposes a limitation on the conclusions that I could draw from this part of the analysis. The sources of information I am based on are Alexander (1962), Sitrângulo (1978) and Mericle (1974). Collective bargaining is not the principal subject of any of these authors. Alexander analyses the nature of labour relations in Argentina, Brazil and Chile in the period that ranges from 1930 to 1960. Sitrângulo presents an overview of the evolution of the subject of arbitration awards set in the state of São Paulo, Brazil, between 1947 and 1976. Finally, Mericle's study is focused on patterns of labour disputes also in the state of São Paulo between January and March of 1964 and in 1971. Nonetheless the available literature is sufficient to identify the extent of bargaining during that period.

3.4.1 The form of union-management relationships

One of the conclusions I have drawn from the literature is that the development of independent bargaining was weak between 1930 and 1978, though some variation over this period could be noticed. According to Alexander (1962: 92-93), between 1930

and 1945 unions seldom sought the tribunals 'let alone independent collective bargaining'. The author provides (partial) information on the evolution of court cases, however there is a lack of evidence on direct negotiations. The figures on court cases ('dissídios coletivos') during the fascist Estado Novo phase (from 1937 to 1945) show that their amount was 'surprisingly small'. The number of cases filed in the labour tribunals between 1941 and 1944 amounted to 14 cases per year, in average, throughout Brazil. This is an indication that the practice of bargaining almost stopped during these years.

During the populist phase (from 1946 to 1964) an increase of bargaining could be noticed. Independent bargaining agreements, though having become 'more common', were still 'exceptions' (Alexander 1962: 93). Again, there is a lack of evidence to support this statement. The number of court cases, however, increased considerably, particularly after 1950. According to Alexander (1962: 65-66, 92-94), the amount of collective disputes filed in the Labour Courts climbed to 257 cases, per year, in average – 18 times higher than the average of the former period. There is a lack of data on the evolution of court cases for the rest of the populist phase.

According to Mericle (1974: 204), free bargaining progressed between 1961 and 1964. He suggests that, between January and March 1964, direct negotiations became 'more common' in relation to the period prior to 1961. Evidence provided by the author shows that around 52 per cent of the labour disputes of the period were solved with the assistance of the labour tribunals, while the rest were settled through independent negotiations. Within the tribunals, around 50 per cent of the cases were settled during the conciliation phase (Table 5). Hence, despite the progress of direct negotiations, there are indications that court cases still predominate over this period. These figures reflect the behaviour of the parties in the most industrialised area of the country, in which the

most powerful unions could be found. These types of workers' interest associations were the most likely to undertake direct negotiations with employers.

Table 5: Court cases and direct negotiations in São Paulo in 1964 and in 1971

Bargaining procedures	1964	1971
Total	100.0%	100.0%
Direct negotiations	47.8%	19.4%
Total court cases	52.2%	80.7%
Conciliation	26.1%	25.8%
Arbitration	26.1%	54.8%

Source: Mericle 1974: 207, 227.

After 1964 the proportion of direct negotiations declined sharply while court cases increased considerably. According to Mericle (1974: 207, 227), in 1971, the relative amount of court cases climbed to around 80 per cent of the total, while direct negotiations descended to around 20 per cent. Within the tribunals the proportion of conciliations remained stable, while that of arbitrations increased. The latter accounted for around 55 per cent of court cases. Mericle points out that these figures are likely to be conservative. He argues that the 'incidence of directly negotiated contracts was probably even more precipitous for the universe of unions' throughout Brazil (Mericle 1974: 226).

The figures provided by Alexander and Mericle suggest that, in the period prior to 1978, the Labour Courts played the most important role in solving labour disputes. They performed the function that in pluralist industrial relations systems was played by collective bargaining. A description of a typical union-management dispute during the populist period, provided by Alexander (1962: 92), shows the extent of dependence of parties to the tribunals:

“Collective disputes begin with a general meeting of a workers' union which draws up a list of demands which it would like to see incorporated in a 'dissídio coletivo' (court decision on terms and conditions of work). The Regional Labour Tribunal then summons the employers' [association] and requests their counterproposal. (...) The tribunal then decides what shall be granted. If there is the menace of a strike, the Regional Labour Delegate of the Ministry of Labour

can intervene to try to get the two sides to reach an agreement. If he succeeds, he promulgates the agreement and this has the force of law. No further action before a labour court is then needed” (Alexander 1962: 92).

We can observe that the union-management disputes were closely related to the Ministry of Labour, and especially to the Labour Courts. Workers’ claims were directed to the tribunals, rather than management. Moreover, employers’ counterproposals were demanded by the courts and not by unions directly. The labour justice, and to a lesser extent the Ministry of Labour, both acted as a sort of intermediary between the parties.

The dependency of the parties on the tribunals is also noted by Mericle (1974: 198-199) as he shows in conciliation hearings the discussion of the parties was generally directed to the judge rather than to each other. This indicates that the main interlocutor of the parties to the negotiations was the judge. The author maintains that after 1964 the court processes were reduced to a ritualised formality (Mericle 1974: 227). Since the patterns of collective union-management disputes did not seem to have changed a great deal during that period, we may affirm generally that prior to 1978 the parties typically relied on the action of state representatives to settle their conflicts rather than on their own actions. This indicates the lack of effectiveness of the interest associations of both parties.

The lack of effectiveness is also expressed in the ways unions behaved in order to influence decisions of the courts regarding their claims. According to Mericle (1974: 201, 203, 206, 208), the most common pressure tactics used by unions, especially during the populist period, were the ‘wage campaigns’ (‘campanhas salariais’) and strikes. The ‘wage campaigns’, which were focused almost exclusively on wage adjustment, included union meetings, distribution of propaganda, marches and demonstrations, frequently in front of the court buildings. These campaigns were directed as much at the tribunals as to employers. They were usually launched during

the annual period of renewal of the collective contract, the reference date ('data base'). Mericle (1974: 208) maintains that strikes and strike threats often grew out of wage campaigns and, in general, involved the issue of higher wages. They were frequently aimed at obtaining the 'assistance of the Ministry of Labour in pressuring the courts and employers to reach settlement'.

Mericle (1974: 208-219) points out that strikes were called by the union leadership. These types of industrial actions were top-down style mobilisations in which workers played a passive role. According to the author, the decisive factor in determining the adherence of workers to strikes was picketing.

We may conclude that in the pre-1978 period employers and employees tended to seek the Labour Courts to solve their collective disputes rather than undertake independent bargaining. The dependency of managers and unions on the assistance of judges for the settlement of their contests is reflected in the form of their relationships within the tribunals, as well as in the form of industrial actions. The process of settlement of conflict tended to be conducted by the judges rather than by the parties themselves. The dependency of the actors on the tribunals is also expressed in the fact that wage campaigns and strikes, which had only some significance during the populist phase, targeted primarily the tribunals and the Ministry of Labour rather than employers. This fact also indicates a lack of effectiveness of unions in bargaining. Links between leadership and rank-and-file were weak and strike actions were top-down style mobilisations instead of being initiated in workplaces. The weakness of the collective bargaining relationship is reflected in the outcomes of the negotiations. This is discussed in the next section.

3.4.2 The bargaining scope

Prior to 1978 settlements were very narrow in scope. According to Alexander (1962: 95), during the fifties the subject of the agreements was limited to pay, in particular to wage increases. More comprehensive settlements were exceptions to the rule, covering very few groups of workers. This is the case of firm-level agreements, which provided for medical and dental care, legal advice, vacation colonies, and consumer co-operatives. Alexander's conclusions are confirmed by the findings of Sitrângulo (1978: 61-73), who shows that, in addition to wage increases, the Labour Courts' decisions included since 1953 a provision establishing a ceiling (or maximum value) for wage increases and since 1962 a provision establishing a wage floor. Mericle (1974: 204-207) also confirmed the findings of Alexander. He shows that the agreements had nine clauses on average, eight concerned with remuneration and one with the duration of the agreement. The principal negotiated issue was the size of wage increase.

In the early seventies the scope of the multi-employer level settlements was still focused on pay-related issues (Mericle 1974: 228). There is evidence, however, that the range of subjects of the agreements increased to some extent. According to Sitrângulo (1978: 78-82), new provisions were granted by the tribunals in arbitration awards. From 1966 onwards one of the new clauses in the settlements was the social tax ('contribuição assistencial'), an employee discount for the union, directly from the firms' payroll, which was approved by workers. Another clause – introduced in 1971 - demanded managers to provide employees with 'receipts' specifying the amount of payment. The clause was meant to prevent frauds of employers, urging them to meet with the legal regulations. A third clause – introduced in 1973 - demanded firms to provide for 'uniforms' without charge. Finally, a fourth new item established provisional 'job

stability to pregnant employees'. It should be pointed out that, according to Keck (1989: 258), the few gains won by workers were through the action of union lawyers in the Labour Courts, rather than the result of rank-and-file pressures.

According to Mericle (1974: 228-230, 250), in 1971 powerful unions of the Greater São Paulo region managed to establish more comprehensive agreements in few firm level negotiations. Some of them included issues such as: working hours, overtime and holiday pay, rest periods, length of vacation and vacation pay, and special bonuses. Mericle stresses, however, that these cases were atypical, benefiting only very few groups of workers. This is the case of agreements settled by the São Paulo Rubber Workers Union with some large high-profit firms of the sector. The Labour Courts did not grant these types of gains. The judges declared themselves not empowered to accept claims that exceeded the legal standards.

Summing up, the pre-1978 period could be characterised by the narrowness of the scope of the settlements. The whole set of agreement provisions listed by the authors amounted to 16 clauses. The function of the negotiations was primarily to set pay issues, in particular wage adjustments and wage floors. In the early seventies, the typical settlements included nine clauses regulating issues such as: (1) pay; (2) additional payments; (3) wage floor; (4) stability for pregnant employees; (5) union social tax; (6) receipts and (7) uniforms. More comprehensive agreements, though these were exceptions to the rule, were negotiated at the firm level.

Conclusion

The Brazilian industrial relations of the period prior to 1978 could be characterised as an authoritarian (or state) corporatist system. At the heart of this arrangement were the official interest associations of employers and employees. The official representative associations were granted public status and, in exchange, the state

handed over public functions they had the duty to perform. Their representative function was, to some extent, distorted as the state managed to insulate union leadership from the pressures of the rank-and-file. By reducing the opportunities of the parties to act at will, the state negatively affected the progress of collective bargaining in the period prior to 1978. This is indicated by a weak development of the autonomy of the parties in relation to the state in dispute resolutions, as well as by the quite marginal role played by negotiations in regulating industrial relations, which, in turn, is manifested in the narrowness of the range of subjects of the collective agreements.

The state played the most important role in the regulation of industrial relations during the period prior to 1978. The Ministry of Labour exerted control over legal unions and employers' associations, as well as the supervision of workplaces. The Labour Courts performed the function of resolution of collective and individual labour disputes. The state also established a very extensive set of statutory employment rules. It fixed the minimum standards for an individual to be contracted in the labour market. Instead of being the outcome of collective bargaining, these regulations were provided for by the state. The underlying message was, according to Bronstein (1995: 165), that the state, not unions, was the guardian of the employees' rights.

The broader environment within which industrial relations evolved was marked by political authoritarianism, expressed by very extensive state interventionism, as well as by a successful economic strategy expressed by high rates of economic growth and by the industrialisation process. In Chapter Four we can see that when the import substitution of manufactured goods economic policy started to decline, the legitimacy of the authoritarian set up came into question.

CHAPTER FOUR

NEW DEVELOPMENTS DURING THE EIGHTIES

In this chapter I am concerned with the changes in the broader environment and in union activism that occurred in Brazil between 1978 and 1991. The period under consideration was a phase of transition in recent Brazilian history. During these years the authoritarian military regime, set up in 1964, came to an end and was replaced, in 1985, by a pluralist democratic political system. The same period is also characterised by the weakening of the import substitution of manufactured goods development strategy (Camargo 1992; Conceição 1989). The eighties were also marked by the increase of workers' activism in relation to the period that started in 1964. These changes are reflected in the alterations introduced by the state in the legal background of industrial relations.

In section 4.1 I describe the developments in the political and economic spheres under separate sub-headings. In section 4.2 I focus on the rise of the trade union movement and on strike activities. In section 4.3 I shed light on the changes introduced by the state in the legal background. I examine, in separate subsections, the new framework of the state-interest association relationship, the changes in the legal regulations of employment, wage policies and the rules of collective bargaining.

4.1 The political and economic environment

In this section I assume that the decline both of authoritarianism and of the strategy of import substitution of manufactured goods are related phenomena. More precisely, I assume that the economic crisis favoured the upsurge of social unrest and undermined the legitimacy of the military regime. I analyse the transition from the

military regime towards democracy in sub-section 4.1.1 and the evolution of the Brazilian economy in sub-section 4.1.2.

4.1.1 The political context

The crisis of authoritarianism and the political liberalisation process were the most salient changes of the eighties. The move towards liberalisation began during the General Geisel administration (1974-1979) and was deepened during the General Figueiredo administration (1979-1984), the last military ruler in office. The end of the transition towards democracy occurred during the José Sarney government (1985-1989).

According to Abramo (1991: 85-92), the crisis of authoritarianism is expressed in a number of ways. One was the growth of the legal opposition party, the Movimento Democrático Brasileiro (MDB), in the parliamentary elections that took place in 1974. The second was the appearance and protests of human rights groups – gathering students, intellectuals, Catholic priests and other groups. The third was the growing organisation of the civil society to unprecedented levels in the country. Côrtes (1995: 18-19) points out that since the mid seventies a number of organisations and popular movements emerged. Among these, the urban trade unions, rural workers and the landless movements, urban field residential associations, feminist groups and environmental associations are the most important. The common ground of these groups was the opposition to the authoritarian political regime.

Faced with social protests and growing opposition, the Geisel administration decided to implement a gradual liberalisation programme. One of the most important measures was the reduction of censorship over the media (Abramo 1991: 90-91). During the General Figueiredo administration (1979-1984) the gradual liberalisation policy was deepened. According to Fausto (1995: 500, 504) the main events were, first, the political amnesty established in 1979. It granted political rights to many left-wing

activists and union leaders and was an important step in the enlargement of civil liberties in the following years. The second event was the abolition, in 1979, of the former two-party system instituted in 1965. The liberalisation resulted in the setting up of a number of political organisations. The most important group formed during that period was the Worker's Party, or PT ('Partido dos Trabalhadores'), created in 1980. It gathered social democratic forces as well as communist groups. The Figueiredo administration preserved the impediments for the legalisation of communist parties. The third event was the re-establishment, in 1982, of free elections for state governors. The military however fell short of introducing free elections for the President of the Republic. Free elections for the president of the Republic and for state governors was ruled out by the military in 1966. From then until the early eighties the president of the Republic was appointed by the National Congress and the governors were appointed by the regional legislative assemblies. The impediment of free elections for the President of the Republic triggered the upsurge of social protests expressed in mass rallies that took place all over the country in 1984. This social movement is generally referred to as the 'direct-elections-now' campaign ('Diretas Já'), which demanded the return of free elections for the president of the Republic. Despite the enormous social mobilisation it brought about, the 'Diretas Já' campaign was unsuccessful. In January 1985 the National Congress appointed the first civil president. The choice fell upon Tancredo Neves, a leader of the opposition party Partido do Movimento Democrático Brasileiro - PMDB. Tancredo Neves however died days before the inauguration of the new government. In March 1985 José Sarney, the vice president, leader of the Liberal Front Party (Partido da Frente Liberal - PFL) took office. The PFL was formed by a group of dissidents of the Aliança Renovadora Nacional - ARENA -, a party that had supported the military regime. The PFL favoured the end of the military regime.

One of the greatest achievements of the Sarney government (1985-1989) was the elimination of the authoritarian legacy left by the military. In 1985 various measures were taken by the government towards democracy. It established: a) free elections for the President of the Republic; b) the elimination of all restraints to political party formation; c) the lifting of state control over union activities and union leaders; d) the liberalisation of the right to strike; e) amnesty to union leaders removed from office during the military governments; and f) the call for a Constituent Assembly in November of 1986. In October 1988 the new Constitution was promulgated. In addition to these measures the Sarney administration refused to intervene in union affairs and in strikes, despite the pressures of employers and government segments to do so. Furthermore, the government did not hinder the formation of inter-union pluralist confederations (Keck 1989: 252-253).

The Constitution of 1988 further enlarged political and civil rights, consolidated the pluralist political party system, and reinforced, to some extent, the status of the National Congress in the power structure. It also provided for the devolution of power and financial resources from the federal government to the states and municipalities. In the domain of industrial relations, the Constituent Assembly abolished the powers of the state to intervene in trade union internal affairs (Camargo 1992: 37-38; Fausto 1995: 524-525).

In 1990, Fernando Collor de Mello, the first president elected by popular suffrage since 1960, took office. The new administration established a development strategy which, in many aspects, strongly contrasted with the orientation of all governments since the thirties. Fernando Collor opened up the economy to foreign trade and began an extensive privatisation programme and state reform. The Collor government, however, did not last long. Charged with corruption and under popular

pressures, the president was eventually impeached by the National Congress, in 1992, and the vice-president, Itamar Franco, took office.

Summing up, from the political point of view the most important development of the period was the elimination of the authoritarian legacy of the past. The liberalisation process went beyond the limits established by the military to an extent never seen in Brazil after 1930, due to pressures of the civil society. Not only was political democracy restored, but also industrial relations were extensively liberalised, as we will see in section 4.3. In section 4.1.2 I analyse the evolution of the economy during the eighties. I suggest that the decline of the development model set up in the thirties favoured the rise of social unrest in that decade.

4.1.2 The economic context

In this section I analyse the characteristics of the economic context between 1978 and 1991 and point out its impact on state policies, and on the purchasing power and unemployment rates. I suggest that the import substitution of industrialised goods industrialisation policy, followed by all governments since 1930, declined. This is expressed by economic stagnation, by hyperinflation and by the rise of foreign and internal debts. I also suggest that the state, which used to be the crucial element in promoting industrialisation and economic growth, by making investments directly or indirectly through government-owned enterprises, in the period prior to 1978, lost its capacity to further the development process throughout the eighties.

Between 1978 and 1991 the economic growth declined while inflation rates and internal and external debts increased in relation to the corresponding figures of the preceding phase. The annual average rate of growth of the 1978-1991 period reached 2.7 per cent, while that of the 1950-1977 period to 7.5 per cent. Inflation rates reached 452.1 per cent per year in average between 1978 and 1991, while between 1950 and

1977 30.8 per cent (Table 6). The high economic growth of the period prior to 1978 was achieved at the expense of an enormous increase of the foreign debt. In 1950 the debt amounted to US\$ 559.0 million, in 1977 to US\$ 32,037.2 million, and in 1991 US\$ 123,910.0 million. Between 1950 and 1991 the variation of the debt amounted to 22,066.4 per cent. From 1950 until 1977 the foreign debt increased 5,631.2 per cent, while between 1977-1991 it increased 184.8 per cent. In Table 6 I show that foreign debt increased a great deal in the aftermath of the international crisis provoked by the oil shock of 1973.

The economic problems of the eighties began in the mid-seventies. The Geisel administration (1974-1979) opted for a 'growth-cum-debt' strategy. The government set up an ambitious development programme aimed at promoting exports of manufactured goods and at further reducing the economic dependency of the country on imports of capital and intermediary goods (Amadeo et al 1993: 3). The programme also aimed at expanding the economic infrastructure in the areas of electricity, transports and communication (Baer 1996: 105-106). This required an increase of direct state investment in the economic activity. The investments of state-owned enterprises accounted for 2.8 per cent of the GDP in 1970 and 8.2 per cent in 1980. This growth was made with the support of external credits, which were then available at low interest rates in the international financial markets (Baer 1996: 129).

The Geisel government strategy was successful with respect to the overall economic performance. Between 1974 and 1978 the average annual rate of growth of the GDP reached 6.7 per cent, though at lower rates in relation to the period 1969-1973 (referred to as 'Brazilian Miracle'), in which it reached 11.5 per cent (Baer 1996: 394). The 'growth-cum-debt' strategy however provoked a rise of inflation rates, which climbed from 22.7 per cent in 1973 to 38.9 per cent in 1978, and an increase of the

foreign debt, which rose around 246.1 per cent during this period (Baer 1996: 104-105, 401).

The Figueiredo administration (1979-1985) was marked with a decline of the economic growth in relation to the Geisel administration, reaching an annual average rate of 2.4 per cent, and with rising inflation rates that climbed from 55.8 per cent, in 1979, to 224.0 per cent, in 1984. The government also faced an enlargement of the foreign debt, which rose 109.4 per cent during this administration. Amadeo (1993: 7) and Baer (1996: 401) attribute this increase to the rise both of the trade deficit, due to the impact of the second oil shock in 1979, and of the international interest rates.

Faced with mounting problems, the Figueiredo government abolished the 'growth-cum-debt' strategy. Orthodox restrictive monetary policies were then introduced. These entailed sharp cuts in domestic credits, severe import rationing and devaluation of the currency. These policies led to an economic downturn. Problems worsened in 1982 with the interruption of the flow of foreign capital to highly indebted countries – among them Brazil - imposing further constraints to the economy. The recession lasted from 1981 to 1983. Imports and aggregate consumption declined, while the proportion of transfers of financial resources abroad increased. These transfers accounted for 0.4 per cent of the GNP in 1980, and five per cent, in average, between 1983 and 1984 (Amadeo 1992: 7-8; Baer 1996: 113, 116-117).

During the Sarney government (1985-1989) the rate of growth increased in relation to the Figueiredo administration, reaching the annual average of 4.5 per cent. An analysis of the period shows, however, that the economic growth oscillated a great deal. Between 1985 and 1987 the GDP grew 6.4 per cent a year in average, while between 1988 and 1989 it grew only 1.6 per cent. Another problem faced by this government was the enormous increase of inflation that amounted to 707.4 per cent a

year in average between 1985 and 1989. In the final years of the Sarney government inflation rates soared. In 1988 prices went up 1,038.0 per cent and in 1989 they reached a peak, climbing to 1,783 per cent (Baer 1996: 118, 120, 394, 401). Hyperinflation occurred despite the successive attempts of the Sarney administration to launch policies aimed at controlling the variation of prices and at promoting economic development. The first and most outstanding initiative was the 'Cruzado Plan', issued in February of 1986 (Decree-Law 2283). It established a price and wage freeze, created a new currency and granted a real increase to wage earners. The plan was very successful during the first months, however by the end of the same year, inflation resumed.

Other stabilisation programmes were launched during the last years of the Sarney administration, the 'Bresser Plan' ('Plano Bresser') of 1987 (Decree-Law 2335), and of the 'Summer Plan' ('Plano Verão') of 1989. As we can see in Table 6, none of these programmes succeeded in stopping inflation. Inflation resumed at even higher rates than before launching the stabilisation economic policies. This is an indication that the control of government over the economic process weakened.

During the Sarney administration the external debt increased 26.0 per cent, which is a considerably lower figure compared to those of the Geisel and Figueiredo governments. In addition to the rise of the foreign debt, the Sarney administration faced another problem, namely the increasing domestic debt. In 1980 it accounted for 8.5 per cent of the GDP, in 1985 for 21.1 per cent and in 1990 for 16.5 per cent (Banco Central do Brasil 1989: 75; Banco Central do Brasil 1991: 71; Banco Central do Brasil 1993: 225). One of the reasons for this growth was that the state had to buy hard currency from the export sector to service the external debt. The other reasons were the expansion of subsidies and the increase of government employment at all levels (Amadeo 1992: 8-9).

Table 6: Economic indicators Brazil, 1970-1992

Years	Annual rate of growth of the GNP	Inflation rates	External Debt (US\$ millions)	Real Minimum wage index (1)	Unemployment rates (2)	Income Inequality (Gini coefficient) (3)
1950	6.8 %	9.2 %	559.0	39.84	-	-
1951	4.9 %	18.4 %	571.0	36.80	-	-
1952	7.3 %	9.3 %	638.0	98.77	-	-
1953	4.7 %	13.8 %	1,159.0	81.35	-	-
1954	7.8 %	27.1 %	1,317.0	98.88	-	-
1955	8.8 %	11.8 %	1,445.0	111.04	-	-
1956	2.9 %	22.6 %	1,580.0	112.81	-	-
1957	7.7 %	12.7 %	1,517.0	122.65	-	-
1958	10.8 %	12.4 %	2,044.0	106.70	-	-
1959	9.8 %	35.9 %	2,234.0	119.45	-	-
1960	9.4 %	24.4 %	2,372.0	100.30	-	-
1961	8.6 %	34.7 %	2,835.0	111.52	-	-
1962	6.6 %	50.1 %	3,005.0	101.82	-	-
1963	0.6 %	78.4 %	3,089.0	89.51	-	-
1964	3.4 %	89.9 %	3,160.0	92.49	-	-
1965	2.4 %	58.2 %	3,927.0	89.19	-	-
1966	6.7 %	37.9 %	4,545.0	76.03	-	-
1967	4.2 %	26.5 %	3,281.0	71.92	-	-
1968	9.8 %	26.7 %	3,780.0	70.39	-	-
1969	9.5 %	20.1 %	4,403.3	67.73	-	-
1970	10.4 %	16.4 %	5,295.6	68.93	-	-
1971	11.3 %	20.3 %	6,621.6	65.96	-	-
1972	12.1 %	19.1 %	9,521.0	64.78	-	-
1973	14.0 %	22.7 %	12,571.5	59.36	-	-
1974	9.0 %	34.8 %	17,165.7	54.48	-	-
1975	5.2 %	33.9 %	21,171.4	56.91	-	-
1976	9.8 %	47.6 %	25,985.4	56.54	-	-
1977	4.6 %	46.2 %	32,037.2	58.92	-	-
1978	4.8 %	38.9 %	43,510.7	60.70	2.3	-
1979	7.2 %	55.8 %	49,904.2	61.29	2.7	0.58
1980	9.2 %	110.0 %	53,847.5	61.78	2.2	0.59
1981	-4.5 %	95.0 %	61,410.8	63.34	4.3	0.57
1982	0.5 %	100.0 %	70,197.5	66.02	3.9	0.58
1983	-3.5 %	211.0 %	81,319.2	56.01	4.9	0.59
1984	5.3 %	224.0 %	91,091.0	52.04	4.3	0.59
1985	7.9 %	235.0 %	95,856.7	53.24	3.4	0.60
1986	7.6 %	65.0 %	101,758.7	50.36	2.4	0.59
1987	3.6 %	416.0 %	107,512.7	36.31	3.6	0.60
1988	-0.1 %	1,038.0 %	113,469.0	38.22	3.8	0.62
1989	3.3 %	1,783.0 %	114,741.0	40.70	3.0	0.63
1990	-4.4 %	1,477.0 %	123,439.0	29.09	3.7	0.61
1991	1.1 %	480.0 %	123,910.0	30.38	5.4	-
1992	-0.9 %	1,158.0 %	-	25.61	-	-

Sources: Baer 1996: 394, 401.

(1) DIEESE 1992: 30. Base year: July 1940 = 100.

(2) IBGE 1980, 1982, 1983, 1984, 1985, 1986, 1988, 1990, 1991, 1993, 1994.

(3) Amadeo 1993: 19.

The Collor government (1990-1992) did not overcome the economic crisis his predecessor has passed on to him. This administration was characterised by economic

recession, which amounted to minus 1.4 per cent per year, in average, and by hyperinflation, which reached 1,038.3 per cent a year, in average (Baer 1996: 118, 120, 394, 401). During these years other stabilisation policies were launched, namely the 'Collor Plan I', in 1990, and the 'Collor Plan II', in 1991 (Baer 1996: 191-215). Like the economic policies established during the Sarney phase, these programmes were unsuccessful in promoting economic growth and a decline of inflation.

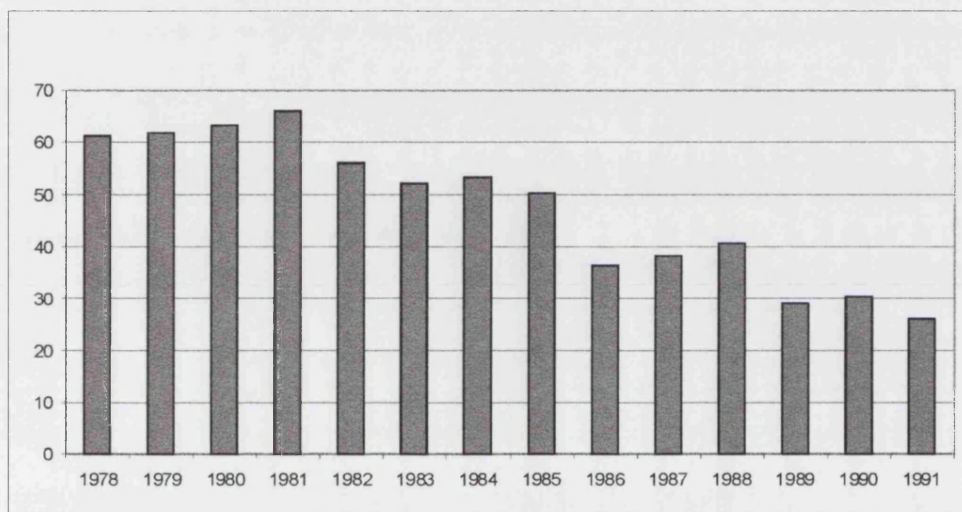
According to Baer (1996: 126, 130, 271), the rise of the domestic and foreign debts and the increase of the international interest rates negatively affected the capacity of the state to promote economic development during the eighties. They led to a decline of government revenues and state investments. Government revenues accounted for 10.1 per cent of the GDP in 1980, and in 1985 for only 5.4 per cent. The investments of state-own enterprises accounted for 6.5 per cent of the Brazilian GNP in 1976, and only 1.4 per cent in 1990. The decline of the capacity of the state to invest is an indication of weakening of the import substitution of industrialised goods economic strategy.

Between 1978 and 1991 inflation negatively affected the cost of living and the purchasing power of the population. The variation of the purchasing power is measured by the variation of the real minimum wage index. The decline of the purchasing power is indicated by the decline of the real minimum wage index. I conclude, based on the results of a regression analysis, that there is a significant and negative relationship between the rise of inflation rates and the decline in the purchasing power. The analysis shows that the minimum wage index decreases 0.017 points when the inflation rates increased by one per cent (regression coefficient = - 0.017; $p = 0.003$).

Figure 1 shows the variations of the real minimum wage between 1978 and 1991. Between 1978 and 1982 it increased slightly, however between 1982 and 1986 it declined. Another slight increase occurred between 1987 and 1988, but in 1989 and in

1991 followed a new descent. Since the value of the minimum wage was established by the authorities, I conclude that, throughout the eighties and early nineties, the size of the increases established by the government did not fully compensate for the effects of inflation in the previous wage period.

Figure 1: Evolution of the real minimum wage index in Brazil, 1978-1991



Source: DIEESE 1993: 30.
Base year: July 1940 = 100.

Evidence I present in Table 6 shows that the economic downturn of the eighties did not significantly affect the level of unemployment. Between 1978 and 1991 unemployment rates never surpassed five percent of the workforce, even during the height of the phase of recession of the early eighties and of the late eighties. Nevertheless, during this period social inequalities increased. The revenues became more concentrated at the top of the earning distribution structure. This is shown by the evolution of the Gini coefficient, which climbed from 0.58 in the late seventies to 0.61 in 1990.

Summing up, in this section I have shown that during the eighties Brazil's economic growth considerably declined in relation to the economic performance of the former decades. Moreover, I show that the rise of inflation and of the internal and external debts alongside the increase of international interest rates constrained the state's capacity to make further direct investments. Since state direct involvement in economic activities was one of the pillars of the import substitution industrialisation strategy, the limitation of its capacity to further this type of economic policies suggests that the old development model declined. The economic downturn negatively affected the purchasing power of employees. This in turn favoured the rise of the trade union movement. In section 4.2 I am concerned with the analysis of this aspect.

4.2 The rise of the trade union movement

In this section I shed light on the strike movement, on attitudes of union leadership and on the factors that caused changes in union behaviour. I argue that social unrest and especially union activism grew out of the environment marked by political liberalisation and economic downturn. I also argue that the union movement of the eighties is characterised by changing postures of the union leadership relative to the state, to employers and to the shop floor.

The landmark of the revival of the trade union movement in Brazil is the year 1978. It is the beginning of a long wave of strikes that lasted until the early nineties. At that time the military were in power and the legal controls of the state over union internal affairs were still in force. According to Noronha (1994: 330-331), in 1978, after many years of very low incidence of labour conflicts, 118 stoppages were recorded (Table 7). In 1979, the amount of strikes more than doubled – 246 were recorded that year. The number of strikes declined between 1980 and 1982. However, from 1983 onwards the amount of stoppages soared. In 1989, the year in which the highest

inflation rates were recorded in the country ever, the number of strikes reached their peak – around 3,943 stoppages.

Table 7: Evolution of real minimum wages, number of strikes and number of days lost in strike activity, Brazil, 1978-1992

Years	Number of Strikes	Days Lost (in million)
1978	118	1.8
1979	246	20.8
1980	144	13.9
1981	150	7.0
1982	144	5.2
1983	393	13.2
1984	618	14.0
1985	927	76.6
1986	1,665	53.1
1987	2,188	132.3
1988	2,137	88.6
1989	3,943	246.4
1990	2,357	187.3
1991	1,399	226.3
1992	568	22.6

Sources: DIEESE 1993: 30; Noronha 1994: 331, 333.

In 1978, around 142.0 thousand workers were involved in stoppages, whereas in 1990 the number climbed up to 20.3 millions of employees. In 1978, around 1.8 million working days were lost in strike activity. The total of working days lost in strikes climbed to the highest point ever in 1989, reaching, according to Noronha (1994: 330-331) 246.4 million. Strike activity remained very high until 1991, though lower than 1989, when 226.3 million working days were lost in stoppages.

In the nineties the strike movement however declined sharply. According to DIEESE¹ (1993: 88; 1996: 148; 2001: 135-137), in 1995 the amount of working hours lost in strikes per month, on average, had decreased to less than a half of the figures of 1985 – 32.0 million working hours lost, in average, per month. It further declined during

¹ Noronha (1991) does not provide data for the rest of the nineties and DIEESE does not provide data for the period prior to 1985. The two sources present the data in a different manner. Noronha informs the annual working days lost in strikes in a given year, while DIEESE shows the figures of working hours lost in average per month per year.

the nineties reaching, in 1999, less than a tenth of that value. More precisely, in 1995 the working hours lost per month, in average, were to 14.6 million working hours, while in 1999 they amounted to around 2.9 million working hours.

A large range of categories of workers were involved in the protests. In 1978, employees of the motor vehicle and engineering industry, metalworkers, and petrol workers in the regions of São Paulo, Rio Grande do Sul, Minas Gerais and Rio de Janeiro went on strike. However, from 1979 onwards, the strike movement spread all over the country, including a large range of segments of the working class, even rural areas and public servants (Almeida 1996: 41; Keck 1989: 263).

Union activism of the seventies and the eighties was extensively analysed by many researchers including Abramo (1991), Almeida (1983, 1987, 1996), Antunes (1988, 1991), Boito Jr. (1991a, 199b), Cardoso (1999), Gomes (1988), Humphrey (1982), Keck (1989), Mangabeira (1991); Neves, Liedke Filho and Silva (1984); Noronha (1991), Novaes (1991), Pastore and Skidmore (1985), Rodrigues (1990, 1993), Rodrigues (1990, 1991, 1999), Silva (1984) and Souza and Lamounier (1981). It is generally referred to by all these authors as 'novo sindicalismo' ('new unionism'). According to Rodrigues (1999: 7), the new unionism is a labour movement characterised by the participation of workers in the struggles against the authoritarian military regime in the late seventies and in the eighties. It is also marked by the appearance of groups of workers that defended the increase of union rights. It entailed a combative attitude towards government, a concern with workers' organisation at both the national and plant levels, and a focus on the improvement of wages and working conditions through direct negotiations with employers.

Workers' activism aimed at ending the official wage squeeze policy and, more broadly, at reforming industrial relations. According to Keck (1989: 261), the trade

movement of the late seventies demanded an extensive revision of the existing labour legislation. The key objectives of unions were autonomy from the state and the liberalisation of the right to strike. The focus was on the abolishment of the authoritarian corporatist constraints on their actions. Workers also demanded political liberalisation and a new economic development model that would place emphasis on raising living standards. With the aim of changing the law, workers adopted a confrontational strategy, characterised by a systematic opposition to official policies, with an emphasis on strikes (Almeida 1996: 31). Keck points out that for the first time in more than a decade, workers were willing to take the risks involved in militant action (to get imprisoned, for instance), even in the face of government repression (Keck 1989: 260).

Apart from getting rid of the political and administrative controls, union leaders sought to establish different and competing horizontal inter-union organisations at the national level. The different bodies reflected the political divisions within the leadership of the new unionism. The first inter-union organisation was the CONCLAT, the National Conference of the Working Class, organized in 1981. One of the proposals, supported by the 'autêntico' group was that the CONCLAT should lead to the formation of the union confederation labelled CUT, the Single Workers' Confederation ('Central Única dos Trabalhadores'). The latter was eventually created in August 1983. The 'unidade sindical' segment remained attached to the CONCLAT until 1986 when the CGT, the General Confederation of Workers' (Central Geral dos Trabalhadores) was founded (Almeida 1996: 78; Keck 1989: 277-278). Also in 1985, the 'União Sindical Independente' – USI (Independent Union Confederation) - was set up and, finally, in 1991, the 'Força Sindical' (Union Power) was created (Siqueira Neto 1992: 3; Rodrigues 1993: 38).

The 'unidade sindical' group supported the traditional parties of the political left, namely of the Communist Party and of the Partido Trabalhista Brasileiro (PTB), a centre-left party created by Getúlio Vargas in 1945. They favoured a more gradual strategy of winning positions within the official union structure. This tactic coincides with the way unions used to behave in the period prior to 1964 (Keck 1989: 273). In contrast, the 'autêntico' group advocated that the crucial task of unions was to organise workers to participate both in union and political life. While the role of the state was acknowledged to be important, it was not expected that it would grant rights that had not already been won in practice (Keck 1989: 273). The implication of this view was a greater emphasis on direct action at the union and plant levels.

In addition to the establishment of an inter-union organisation at the national level, the 'autêntico' group felt the need to have their own independent political party for representing and advocating the rights of labour in the political sphere. In 1980 this group together with intellectuals, Catholic activists, and members of small, extra-legal, Marxist parties (mainly Trotskyites) founded the Workers' Party ('Partido dos Trabalhadores' - PT) in 1980 (Keck 1989: 273-274, 287).

The new unionism also entailed a concern with organising workers at the shop floor. Instead of calling workers occasionally for mass actions, as occurred in the pre-1964 period, in the most industrialised areas of the country employees struggled and even managed to organise on-going shop-floor activity (Keck 1989: 258). By establishing better links between leadership and workplaces, unions became more efficient in organising wage campaigns and strikes. According to Keck, workers in the factories began then to appreciate the importance of organising at the work place and to see unions as the main instrument that they had for winning concessions (Keck 1989: 262-263).

Several types of shop floor employee organisation appeared during the eighties. First, workers won the right from employers to elect factory commissions, in some firms, through collective bargaining. The latter were conceived as temporary committees, which could carry out specific tasks, such as gathering signatures for a petition (Keck 1989: 258). Second, in other cases employees won from employers the right to elect their own representatives in the legal Accident Prevention Commissions ('Comissões Internas de Prevenção de Acidentes' – CIPAs), rather than these being appointee by management. A number of other union and workers' rights were also won. These included: (a) the right to have shop stewards; (b) the right of union officials to visit the shop floor without being accompanied by an official of the company; (c) the right to have a union bulletin board in the workplace; (d) the right of unions to verify job safety measures taken by management; and (e) the right to have regular meetings between union officials and the firm to discuss workers' problems (Keck 1989: 269, 271). These type of rights were absent in the labour legislation and were very rarely won in negotiations in the period prior to 1978. They indicate that a different kind of relationship between union leadership and the rank-and-file and between unions and management was established.

Third, the new unionism also entailed a concern of workers with the improvement of wages and working conditions. Workers' organisations became more concerned with winning concessions directly from employers, through collective bargaining, rather than relying solely, as in the past, on the government or Labour Court rulings. Yet, to be able to win gains in negotiations, unions had to win the right to strike (Keck 1989: 258).

The upsurge of the labour movement was caused by a number of inter-related factors. Four are given prominence by Almeida (1996), Keck (1989), and Pastore and

Skidmore (1985). The first is the political liberalisation process. The second were the structural changes in employment, which were caused by the rapid economic progress of the preceding decades. Between 1960 and 1991 the share of employment of the Primary Sector declined, while that of the Secondary Sector and especially of the Tertiary Sector increased. We can see in Table 8 that between 1960 and 1980 the number of workers in the Secondary Sector grew 3.8 times. In 1960 the Secondary sector accounted for 12.3 per cent of the total employment in Brazil, in 1980 it accounted for 24.9 per cent of the total and in 1991 it accounted for 23.6 per cent. In 1980, the employees of the Manufacturing Industry accounted for 66.0 per cent of the amount of workers of the Secondary Sector. The Tertiary Sector accounted for 33.1 per cent of all employees in the country in 1960, 44.6 per cent in 1980, and 53.7 per cent in 1991. During the same period the share of the Primary Sector declined sharply. It accounted for 54.5 per cent of the total in 1960, 30.5 per cent in 1980, and 22.7 per cent in 1991 (IBGE 1960, 1970, 1980, 1991).

Table 8: Number of workers per economic sector, Brazil, 1960-1991

Year	Primary	Secondary	Tertiary	Total
1960	12,408,299	2,809,317	7,532,412	22,750,028
1970	13,265,782	5,120,003	11,171,439	29,557,224
1980	12,912,284	10,521,196	18,838,046	42,271,526
1991	12,555,768	13,048,782	29,688,766	55,293,316

Source: IBGE – Censos Demográficos of 1960, 1970, 1980 and 1991

The structural changes generated a favourable environment for union organisation and activism from 1950 onwards. This is expressed in the speedy growth both of the number of trade unions and of union membership. According to the Brazilian Institute of Geography and Statistics, ('Instituto Brasileiro de Geografia e Estatística' - IBGE (1956)) in 1950 the number of unions and employers' associations (the 'sindicatos') registered in the files of the Ministry of Labour amounted to 1,894,

and in 1990, to 10,075. This corresponds to an increase of 431.9 per cent throughout this period (Table 9). The amount of 'sindicato' members (labour unions plus employers' associations) grew much more than this. In 1960 the 'sindicatos' had 1,257,484 members, while in 1990 they had 16,675,532 members. This corresponds to an increase of 1,226.1 per cent between during these years. The number of members of the 'sindicatos' accounted for around 5.5 per cent of the Brazilian work force in 1960, around 7.6 per cent in 1970, 27.3 per cent in 1979 and 30.2 per cent in 1990.

Table 9: Number of unions and employers' associations, 'sindicato' members, workforce and 'sindicato' members in the workforce, Brazil, 1950-1990

Year	Number of Trade unions and employers' associations	'Sindicato' Members (1)	Workforce	'Sindicato' members in the workforce
1950	1,894	-	-	-
1960	2,729	1,257,484	22,750,028	5.5%
1970	5,390	2,232,402	29,557,224	7.6%
1979	7,252	11,529,409	42,271,526	27.3%
1990	10,075	16,675,532	55,293,316	30.2%

Source: IBGE - Anuários Estatísticos do Brasil 1951, 1961, 1971, 1983, 1993, 1995.

(1) The expression 'sindicato' members refers to the sum of trade union members and of employers' association members. The official statistics do not provide separate figures for these institutions.

The third factor that led to the appearance of the new unionism was changes in union leadership (Pastore and Skidmore 1985: 74). After the purge of unions that took place in the aftermath of the 1964 military coup, a new generation of leaders replaced the older one. The new leadership encouraged workers' militancy, particularly the organisation of employees at the workplace level, away from traditional unionism. In the past it was rare that union leaders encourage on-going shop-floor activity (Keck 1989: 271).

The fourth factor that favoured the rise of the trade union movement was inflation. This assumption is confirmed by a regression analysis. The result of the

analysis suggests that one per cent of increase in the inflation rates leads to an expected increase of 0.103 millions in the number of days lost in strikes (regression coefficient = 0.103; $p = 0.004$). This means that as prices rose, pushing down the purchasing power of employees, workers became dissatisfied, triggering the organisation of strikes. Furthermore, no longer trusting the official figures regarding inflation rates, employees demanded the right to negotiate wage increases directly with employers, without state involvement. Striking against the official wage policies, one of the pillars of the military regime's strategy for industrial relations, represented a confrontation of government directives (Almeida 1996: 35-41; Keck 1989: 261-262; Pastore and Skidmore 1985: 89-90).

Despite the intensity of the strike movement, trade unions were unable to reverse the decline of the purchasing power of workers' earnings. Table 6 and Figure 1 show that the real minimum wage was in decline since 1982, though not every year. According to Almeida (1996: 114-115), the union movement became more fragmented and short-term oriented in the second half of the eighties. Individual unions were concerned with maximising the results of negotiations held at the local level, with no regard to the macro-level effects. At the same time, employers were very reluctant to accept the restraints to their freedom to fix prices of products and services set by the authorities, and government no longer had the capacity to restrain the autonomy of the parties to the negotiations and to ensure their compliance to the legal regulations.

Almeida (1996: 111-122) points out that after 1985 unions were trapped in a vicious circle. As prices rose, they were up to demand wage increases. However, the pay rises that they achieved contributed to the inflationary process. This is because employers, in disregard of the law, passed the increases on to the prices, feeding inflation. And then again, employees were faced with the rapid decline of their

purchasing power and unions, once again, were urged by workers to demand wage increases.

Summing up, I have shown that the Brazilian working class grew in number and became more autonomous in relation to the state throughout the eighties. The setting up of independent pluralist inter-union horizontal confederations, the changing attitudes of unions towards employers and the state, and the strike movement indicate that employees' official representative associations broke away from the patterns of behaviour of the period prior to 1978. Instead of co-operating with the state and relying on the Labour Courts to win gains, they started to confront the authorities and employers. The most active groups even sought to reinforce workers' position in society by creating a political party. Moreover, unions also sought to become more responsive to the needs and expectations of their members, as well as to be more effective by establishing links between leadership and workplaces. I point out that employee representative associations became more organised and active despite the constraints set by the existent legal regulations. I conclude that the rise of union activism indicates the lack of capacity of the state to ensure the compliance of workers' interest associations to the legal regulations. This indicates, in turn, that the corporatist arrangement, which used to provide the political conditions for intervention and control over the behaviour of unions in the pre-1978 phase, declined. The weakening of corporatism is expressed in the changes introduced in the legal framework during the eighties. The analysis of this aspect is the concern of the next section.

4.3 Changes in the legal environment

In this section I am concerned with the changes in the legal regulation regarding union organisation, individual employment rights, wage policies and collective bargaining. I show that the status of unions in relation to both the state and their

members changed considerably. This, in turn, indicates the decay of corporatism. Nevertheless, despite the decline, the state continued to play the major role in the regulation of industrial relations. These aspects are highlighted in the following four sub-headings.

4.3.1 The changes in the state-interest associations relationship

The most extensive changes in this set of regulations were introduced by the 1988 Constitution. I show that core features of the corporatist arrangement were eliminated. The interest associations of employers and employees won the right to act at will and became less dependent on the state. I also maintain that non-essential elements of the old system were preserved. The main alterations introduced in the legislation are shown in Table 10.

a) Legal entitlement and attribution of public status

The 1988 Constitution eliminated most of the rules that regulated the legal entitlement in the pre-1978 phase. One of the most important alterations was that employees' and employers' interest associations no longer needed the approval of the Ministry of Labour (Article 8, item I). The parties were granted freedom to establish their organisations. The only requirement established by the Constituent Assembly was that the new (and the old) interest associations were to register their statutes, for legal purposes, in the files of a judicial or an administrative institution. The terms of the law as regards to this aspect were rather vague. According to Nascimento (1991a: 230-231; 1994: 142), in the absence of further specifications the parties decided to register their associations in the Ministry of Labour. Since trade unions employers' associations acquired the status of private organisations ('organizações de direito privado'), they were also required to be registered in the files of the Judiciary as any other private

organisation. Whenever an interest association applies for registration, the authorities are required by law to publish its statutes in official newspapers. The registration of the organisation is official if there is no other association claiming the representation of the same category of workers or of employers in a given territory. If there were a competing union (or employers' association) claiming the representation of a given category in the same territory, then the issue was channelled to the common Justice. The Judiciary has the power to decide to which group the official representation of that category will be assigned. Nascimento (1991a: 230-231) points out that being registered does not imply state control over the interest associations.

Another alteration introduced by the Constituent Assembly of 1988 was that workers were no longer required to combine according to the guidelines of the old master plan provided for by the Ministry of Labour. According to Article 8, item II, of the 1988 Constitution, the decision of which category of employers and employees the interest associations were to represent became free.

Despite eliminating the official recognition of interest associations the Constitution retained the prerogatives granted by the 1943 CLT (Articles 513 and 579-580). The officially registered organisations had the following rights: a) to be recognised as legitimate representatives of workers and employers by administrative or judicial authorities, as well by the parties themselves; b) to establish collective agreements; c) to elect their representatives; d) to have a seat in tripartite government agencies aimed at studying and at proposing policies for the resolution of problems of the respective categories; e) to impose dues to members; f) to receive the revenues of the annual compulsory contribution.

Table 10: Dimensions of corporatism, the 1943 CLT, and the Constitution of 1988.

Dimensions	1943 CLT	1988 Constitution
Legal entitlement and attribution of public status	- Article 515: requirements for interest associations to be recognised	Eliminated
	- Article 518: the application for legal recognition was to be accompanied by statutes	Eliminated
	- Article 519: criteria for the Ministry of Labour to choose between competing groups	Eliminated
	- Article 520: provides for the expedition of the legal entitlement certificate	Eliminated
	- Articles 570-577: establish the criteria of combination	Eliminated
	- Article 513: prerogatives of interest associations	Preserved
	- Articles 579-580: compulsory annual contribution of members	Preserved
Monopoly of representation	- Article 516: provides for the monopoly of representation	Preserved
Performance of quasi-public functions	- Article 514: requires legal interest associations to co-operate with state in promoting social solidarity and other aspects	Eliminated
Membership rules	- Article 544: provides for the representation of members and non-members alike	Preserved
Constraints	- Intervention of state in the internal affairs of interest associations	Eliminated
	- Constraints on demand making activities	Eliminated

Sources: CLT of 1943 and the Federal Constitution of 1988

The Constitution of 1988 not only preserved the official compulsory contribution but also codified an additional compulsory source of income: the social tax ('contribuição assistencial') - Article 8, item IV. The codification of this issue represents a legal recognition and confirmation of a rule that was already established in collective agreements as well as in arbitration awards since 1966 in the most industrialised regions of the country (Nascimento 1994: 144-145; Pichler 1983: 142-145; Sitrângulo 1978: 78-82).

The main conclusion drawn from this analysis is that the 1988 Constitution represents a breakaway from the former corporatist regulations. The former official recognition was replaced by official registration. In contrast to the past, official

registration does not imply state control over internal affairs of interest associations, as it is no longer a basis upon which the state can license the behaviour of the interest associations (Williamson 1989: 223). The official registration thus no longer can be a part of any trade-off between state and legal interest associations in which the state supports the legal organisations in exchange for constraints upon behaviour and leadership selection. This becomes clearer by analysing the other dimensions of corporatism, which I will now do.

b) Monopoly of representation

Employers and employees became free to set up their organisations providing they respected the monopoly of representation principle (Article 8, item II of the 1988 Constitution). The Constituent Assembly confirmed the 1943 CLT rule (Article 516) outlawing more than one organisation representing the same category of employers or of employees in a given territory ('base territorial'). The only alteration relating to this is that the parties became free to establish the area of their jurisdiction, providing it was not smaller than the area of a municipality, instead of this being fixed by the Ministry of Labour.

Although the monopoly of representation was preserved, we cannot conclude that this rule, in itself, characterises corporatism. This principle is a non-essential element of this type of arrangement. It is of little significance if it is not accompanied by the requirement of performance of public functions by legal organisations (Williamson 1989: 209).

c) Performance of quasi-public functions

The Constituent Assembly of 1988 extinguished the previous rules providing for the public functions that the licensed organisations were required to perform. It

established that unions and employers' associations were to protect the individual and collective rights of their members (Article 8, Item III, of the Constitution). The performance of a public function was replaced by the function of representation. Henceforth the officially registered interest associations became free to represent the interest of their members rather than being required to co-operate with the state in promoting social solidarity. I conclude that with this respect the Constituent Assembly also represents a breakaway from former regulations. It represents an alteration of the status of unions in relation to their members in that they became free to play a representative role. They were no longer required to act as intermediaries between the state and their members to ensure a measure of compliance with public policies.

d) Membership rules

The 1988 Constitution did not change the rule regarding membership established in the 1943 CLT (Articles 579 and 611). No employer or employee is obliged to become a member of an interest associations (Article 8, item V of the Constitution). However, although free membership was guaranteed, as in the past, every individual employer and employee had to pay the annual compulsory contribution to the respective interest association in a given territory. Moreover, the terms set in collective agreements or in arbitration awards are applied to every employee covered by a given bargaining unit regardless of membership. This is also a non-essential element of corporatism.

d) Constraints

The most extensive change introduced by the Constituent Assembly was the elimination of the power of the state to exert control over the action of interest associations and, in particular, over union internal affairs. The restraints on union activities and on union leaders were totally eliminated. Since 1988, the state is no longer

empowered to depose leaders, to invade union offices, to manage union elections or to close down unions (Nascimento 1994: 135, 142-143). Extensive changes were also introduced in the domain of union demand making. As regards to kinds of demands, the Constituent Assembly established that collective settlement clauses might contradict the terms of the law on aspects such as wages and working hours. As regards to kinds of demand-making activities, the liberalisation of the right to strike stands out. Workers were no longer required to have government approval to go on strike. Employees were to decide by themselves whether strike action was appropriate, and which interest they were going to defend by means of such action. Workers and unions were, however, made responsible for 'abusive acts' that might occur during stoppages. There is no definition of the label 'abusive' in the Constitution. The judges in the Labour Courts were to decide case by case, based on existent jurisprudence, if employers' complaints were filed. Among the cases that can fall into this category are the invasion of work establishments by strikers, sabotage, boycotts, physical aggression, and damages of building and equipment (Nascimento 1991a: 313-316). The law established restraints on strikes in 'essential services', in which authorities and the parties concerned were to ensure the continuity of services indispensable to the community (Córdova 1989: 265; Nascimento 1991a: 307-318).

The most far-reaching implication of the elimination of this aspect from the law is that the state no longer has the power to intervene in interest associations in order to ensure the compliance of their members with public policies. This means that unions and employer associations increased their autonomy in relation to the state.

e) Union organisation

Finally, as regards to union organisation, there were few changes. By maintaining the monopoly of representation principle, the Constituent Assembly

preserved the former workers and employers organisations. The most important alteration was the introduction of the right of employees to elect shop stewards ('delegados sindicais') in organisations with more than 200 employees (Article 11). In addition, the right to organise unions was extended to all public servants but the military (Article 37, item VI). Under state corporatism these categories were not allowed to organise in trade unions.

Another change introduced in the legislation was the elimination of the 1943 CLT prohibition for the establishment of the inter-union pluralist confederations in 1985 by Order number 3100 of the Ministry of Labour. According to Nascimento (1991b: 141), the Constitution did not provide for the regulation of this aspect. This implies that the formation of union confederations was no longer prohibited.

In this section I have shown that extensive changes were introduced in the corporatist legal framework. I conclude that, as a result of these alterations, the status of unions in industrial relations has changed. Essential dimensions of the old arrangement were eliminated from the law. Interest associations were granted freedom to organise, providing they met the monopoly of representation principle. The legal entitlement of the interest associations was replaced by their official registration in the Ministry of Labour. From 1988 on, unions enjoy the status of private organisations that were to represent and defend workers' and employers' interests. The state has forsaken its power to intervene in their internal affairs and is no longer empowered to ensure their compliance with public policies by means of attributing them a public status. The next sub-section examines the changes introduced by the Constituent Assembly in the regulation of the employment relationship.

4.3.2 The changes in the regulations of the employment relationship

This section is concerned with the nature of the changes in the regulation of the employment relationship throughout the eighties. During this period the most important alterations were introduced by the 1988 Constitution. The legislators not only preserved the rules set in the CLT, but also introduced improvements in those regulations.

One set of improvements instituted by the Constituent Assembly were the rules providing for dismissals and job stability. First, the indemnity for unfair lay-offs was increased (Article 7, item I). Since 1988 employers were required to pay the dismissed employee an extra forty per cent of the amount of the employee's Time of Service Guarantee Fund (FGTS) deposit in the official banks, rather than the previously established ten per cent. Second, the legislators granted job stability to the employees that were members of the legal firm-level Accidents Prevention Commissions (CIPAs) from the moment they were running for election until one year after the end of their mandate. Every organisation was required by the CLT to establish this type of commission. The function of these CIPAs was the assessment of the safety conditions at the workplace. Three, pregnant employees were also protected against lay-offs (Article Seven, item XVIII; Article Ten, item II, b). The Constitutional provision improved the former maternity leave rights established in the CLT by guaranteeing job stability from the moment pregnancy was detected to five months after the child's birth. The former CLT rule established job stability during the period of four weeks before the child's birth until two months after the birth. In addition to job stability, the Constituent Assembly guaranteed women their normal income during the period of leave. It should be pointed out that, as regards to this case, the Constitution codified and improved a right already won by the most powerful unions of the country in collective bargaining.

Four, a paternity leave of five days was also instituted (Article Seven, item XIX; Article X, Paragraph I).

The Constitution granted also a reduction of the working week from 48 to 44 hours (Article Seven, item XIII). The legislators made the participation of unions in the negotiations aimed both at further reducing the weekly working hours, as well as at establishing other mandatory working hour arrangements. This again constitutes a codification of a rule already established in collective agreements negotiated by powerful unions in the most industrialised areas of the country during the eighties.

As regards to remuneration, the Constitution preserved the minimum wage rule. It stated that every regular employee had the right to be paid no less than the corresponding amount fixed by the law (Article Seven, item Four). The National Congress, rather than the executive branch of the government, became responsible for setting the value of the minimum wage, the size of the wage increase and the frequency of its adjustment. Moreover, the Constitution guaranteed to different categories of workers the right to set specific wage floors (Article Seven, item V). This constitutional rule is also a codification of a right already won for some workers in collective bargaining arrangements or in Labour Court decisions since 1962 (Nascimento 1991a: 119-120; Sitrângulo 1978: 61-63). Furthermore, the Constitution ruled that overtime hours were to be paid 50 per cent on top of the normal working hours, rather than the former 20 per cent (Article Seven, item XVI). Finally, employers were not allowed to reduce wages, unless this was established in collective agreements (Article Seven, item IV).

The Constitution also established the unemployment benefit right (Article Seven, item II). The legislators confirmed the rules set by Decree-law 2,284, of 1986,

by granting workers a four-month benefit at every eighteen-month interval (Nascimento 1991a: 86).

A novelty introduced by the legislators was the right of employees to have an extra-payment on annual vacations (Article Seven, item, XVII). The Constitution required employers to pay the employee an additional amount, on top of his or her wages, corresponding to at least 1/3 of his or her normal monthly earnings.

A major conclusion I draw from this analysis is that the law was confirmed by the Constituent Assembly of 1988 as the major source of employment rights. The former statutory regulation was not only preserved, but also improved. Hence, rather than reducing the coverage of the statutory regulation, the legislators increased it to some extent. In various cases this increase was a codification of rules already won in collective bargaining by powerful unions during the eighties. The law thus extended to the entire working population rights that were previously circumscribed to specific categories. In some cases the participation of unions in the establishment of employment rules through collective bargaining was made mandatory. The wage policy is also an expression of state involvement in the regulation of the employment relationship. This aspect is analysed in separate in the section below.

4.3.3 Wage Policies

Between 1978 and 1991 many changes were introduced in this set of legal regulations.² Law 6708 of 1979 introduced one of the most salient alterations of the period. First, the law shortened the period of compulsory wage adjustment based on the

² The laws regulating the wage policies after 1964 were the following: Law 4725 of 13/07/1965, Law 5451 of 12/06/1968, Law 6174 of 29/11/1974, Law 6708 of 30/10/1979, Law 6886 of 10/12/1980, Decree Law 2012 of 25/01/1983, Decree Law Lei 2024 of 25/05/1983, Decree Law 2045 of 13/07/1983, Decree Law 2064 of 19/10/1983, Decree Law 2065 of 26/10/1983, Law 7328 of 29/10/1984, Law 7450 of 23/12/1985, Decree Law 2283 of 22/02/1986, Decree Law 2284 of 10/03/1986, Decree Law 2302 of 21/11/1986, Decree Law 2335 of 12/06/1987, Decree Law 2336 of 15/06/1987, Law 7730 of 31/01/1989, Law 7737 of 28/02/1989, Law 7777 of 19/06/89, Law 7788 of 03/07/1989, Law 8030 of 13/04/1990, Law 8178 of 01/03/1991 (Hom 1993: 19-26).

cost-of-living index, which henceforth was established twice a year, rather than annual. Second, the law defined differential wage adjustments according to earning levels. The authorities established that the lower the wage level, the higher the wage increase would be and vice versa. Employees earning between one and three times the minimum wage were granted an increase superior to the inflation rate of the former period: 110 per cent of the cost of living. Those earning above ten times the minimum wage were granted an increase of 80 per cent of the official rate. Finally, those earning between three and ten times the minimum wage were granted an index of adjustment equal to the inflation rate of the preceding period. In doing so the Figueiredo administration codified, and extended to the entire workforce, a practice already introduced in large enterprises since the mid seventies (Brandão 1991: 28). Third, the most important aspect, in my judgement, was the establishment of collective bargaining as a supplementary means of fixing wage adjustments. According to this rule, on top of the official increases, employees were free to negotiate a productivity increment, as a supplementary wage increase. Employers and employees were allowed to agree a real wage increase equivalent to the productivity of private firms or public institutions during the preceding year. This aspect was a break away from the previous rule. Since 1964 the size of the 'productivity' gain used to be computed by the government and was included in the official wage adjustment equation (Mericle 1974: 265-268; Pastore and Skidmore 1995: 87, 94). The official index establishing the size of wage adjustments used to be consistently underestimated causing the decline of real wages through time. This was one of the reasons, alongside inflation, that led to the rise of workers' unrest in the late seventies. The inclusion of collective bargaining in fixing a part of wage increases was made permanent ever since.

The government amended these rules in 1980. Law 6886 provided for the elimination of compulsory wage adjustments of higher wage earners. It prescribed that employees earning more than twenty times the minimum wage were to review their earnings in collective bargaining (Almeida 1996: 59-60; Brandão 1991: 18-23; Keck 1989: 268).

In 1983, at the height of the economic recession of the early eighties, further changes were introduced in the wage policy. Decree-Law 2065, of 1983, was the last of a series of five issued during that year. The main changes introduced were, first, a ceiling for productivity gains set in collective bargaining, limiting it to the variation of the real per capita income of the previous year, which was computed by the government. If increments set by the parties in negotiations exceeded the legal maximum, they could not be transferred to the prices of products or services of the firms. Second, a full replacement of any losses of earnings caused by the deterioration in the purchasing power due to inflation was guaranteed by the government only to those earning up to three times the minimum wage. For the rest of employees it guaranteed 80 per cent of the inflation rates for those earning between three and seven times the minimum wage; 60 per cent for those earning between seven and fifteen times the minimum wage; and 50 per cent for those earning more than this. Third, the law stated that these rules would last until August 1988. From then onwards wages were to be adjusted according to indexes set in collective bargaining (Almeida 1996: 60-61; Brandão 1991: 35-42). That is to say, the law established a date for official wage policies to terminate.

This legislation provoked a strong reaction in the trade union movement. Government then had to face not only the opposition of employees in the private sector and state-owned enterprises but also public servants (Almeida 1996: 53-54). As a result,

strikes resumed in 1983 and 1984 even stronger than before. The 1983 regulations did not last long. In 1985, the first civil government extinguished, in practice, the official wage policy by leaving wage increases to be set in collective bargaining (Almeida 1996: 69).

The attempt of the state to avoid becoming involved in setting wage increases was short lived. In the face of rising inflation, increasing foreign debt and pressure from the trade union movement, expressed in the wave of strikes, the government resumed its attempts to stabilise the economy and to determine a new wage policy. In 1986 the Sarney government (1985-1990) established an economic shock policy – referred to as Cruzado Plan (Decree-Law 2283). Alongside a general price freeze, and the creation of a new currency, first it reinstated annual compulsory wage adjustments. At the reference date ('data-base'), the annual date of renewal of the present collective contracts, wages would be adjusted up to 60 per cent of the price variation during the preceding twelve-month period. The rest was to be established in negotiations between the parties. Second, in addition to this adjustment the government created the 'wage trigger' ('gatilho salarial'). According to this system, whenever the variation of prices reached the level of twenty per cent, wages were to be adjusted by an amount equivalent to the level of the present inflation rates for the previous wage period. Third, the rule of direct negotiation of productivity gains was preserved. Fourth, at the outset of the new economic stabilisation policy, the government granted a wage adjustment and an extra bonus to employees (Almeida 1996: 61, 73; Brandão 1991: 47-58). By fixing the compulsory wage adjustment below the inflation rate the state intentionally encouraged the practice of collective bargaining.

The Cruzado Plan had a positive impact on the economy. In 1986 the economy grew 7.6 per cent and inflation rates declined from 235.0 per cent, in 1985, to 65.0 per

cent (Table 6). The number of strikes, however, increased 79.6 per cent in relation to 1985, though the number of working days lost declined, around 30.7 per cent (Table 7). In 1987, nevertheless, inflation increased again, climbing to 416 per cent. The government decided then to launch another stabilisation programme.

The Bresser Plan (Decree-Law 225 of 1987) abolished the wage-trigger system because it fed inflation, and established a ninety-day wage and price freeze. After this earnings were to be adjusted monthly according to an official index, which used to set the adjustment rates below the actual level of price variation during the corresponding period. At the reference date the rest of the price variation was to be negotiated between employers and employees (Brandão 1991: 58-61; Almeida 1996: 95). This economic stabilisation programme also failed to curb inflation. Unions opposed this governmental programme by organising an unsuccessful general strike in August 1988, which did not achieve its goals. Despite the failure of this initiative, union activism undermined the Bresser Plan in practice. Unions and management established agreements with wage increases superior to the inflation levels of the former period. These adjustments were passed on to prices by the firms, feeding inflation (Almeida 1996: 99-100).

In 1989 the government introduced further changes in the economic policies. It established the Summer Plan (Law 7730), which included a wage freeze during a limitless time period. In the same way as with the former economic programmes, this one also failed to stabilise the economy and inflation resumed even stronger than before. In 1989 it reached a peak out to 1,783.0 per cent a year (Table 6). Trade unions became very uneasy with the rapidly declining purchasing power and demanded from the government a new wage policy indexing earnings to price variations. Eventually, Law 7788, issued by the National Congress in the same year, re-established compulsory monthly wage adjustments and reinstated distinct adjustments according to different

wage levels. There was, however, no provision for the adjustment of the earnings of employees that exceeded twenty times the minimum wage. These continued to be defined in collective negotiations (Almeida 1996: 62, 104-107; Horn 1993: 24-25). These measures also failed to reduce labour activism. In 1989 strikes reached the highest figures ever.

During the first year of the Collor government (1990-1992) the wage policy was again subjected to changes. In 1990 Collor Plan I was launched (Law 8030). The new economic programme established wage and price freezes and reinstated compulsory monthly wage adjustments in case inflation resumed. Differentiated adjustments according to distinct wage levels were extinguished. The law established that real gains were to be freely negotiated between the parties. The official indexes at best, set wage increases at the level of actual inflation rates. Employers were not allowed to pass on to the customer the wage increases granted to their employees (Horn 1993: 25, 64-77).

Collor Plan I also failed to control inflation. Another stabilisation programme was launched in 1991. With Collor Plan II (Law 8178 of 1991) once again the wage policy changed. Apart from granting wage increases in order to replace the losses due to price variation, it extinguished the compulsory state-setting wage adjustments. Henceforth, pay increases were to be fixed by the parties themselves in collective bargaining. This rule did not last long. It was changed again in September 1991 (Law 8222). Compulsory statutory wage indexation was reinstated. Earnings were to be compulsorily adjusted, every two months, according to an official index (Horn 1993: 26, 79-86).

Summing up, between 1979 and 1991 the official wage policy combined compulsory wage adjustment and free negotiations. The successive wage legislation determined to what extent wage increases were to be directly negotiated by the parties.

In some pieces of legislation government reduced the extent to which the parties were allowed to establish, on their own, wage increases, whereas, in others these limits were increased. In the wage policies, invariably, negotiations were designed to fix supplementary increases of earnings rather than the principal increase (Brandão 1991: 141). Hence, collective bargaining, ever since 1979, has played a greater role, especially in relation to the post 1964 period, in the establishment of wages in Brazil. That is to say, the opportunities for collective bargaining enlarged from then on. The specific rules regulating negotiations, which are examined in the section below, reflect this fact.

4.3.4 Collective Bargaining Regulations

The 1988 Constitution strengthened the role of unions and employers' associations in the regulation of industrial relations, first, by making mandatory the participation of officially registered interest associations of employers and employees in collective bargaining processes (Article Eight, item VI). Second, it opened up opportunities for negotiations by granting the parties the right to use, if they wished, private arbitration rather than the official Labour Court apparatus to settle their disputes (Article 114). Third, it also strengthened collective bargaining by establishing that working-hour arrangements and wages could be determined by collective bargaining, even if the agreement provisions were less favourable than those set in the law (Article Seven, Items VI, XIII and XIV).

Conclusions

I argue that the national development model set up in the thirties declined during the eighties. This is indicated by developments that represent a breakaway from fundamental features of social relations of the period prior to 1978. One was the end of the authoritarian military regime and the establishment of a democratic political system

in 1985. Another was the decline of the economic development model based on imports substitution of industrialised goods. The weakening of the imports substitution model is indicated by the rise of inflation, by the growing external and internal debts, and by the increasing financial crisis of the state. Finally the rise of union activism also represents a considerable move away from patterns of labour relations prevailing in the pre-1978 phase. The most salient expressions of the 'new unionism' were the formidable strike movement, the setting up of independent pluralist inter-union confederations, and the organisation of unions at the shop floor.

I argue that these new developments negatively affected the state corporatist arrangement. This is, to some extent, expressed in the changes introduced by the state in the legal framework of industrial relations. I have shown that essential elements of the institutional arrangement set up by the Vargas Regime, which provided the political conditions for state intervention in industrial relations, was dismantled in practice by the labour movement and eventually acknowledged in the Constitution of 1988. The Constituent Assembly eliminated from the law the requirement of legal entitlement for interest associations, the requirement of the interest groups to perform public functions, and the power of the state to intervene in the internal affairs of these organisations. I conclude that the legal changes implied in an alteration of the status of unions and employers' associations in industrial relations. These organisations became more autonomous from the state, which, in turn implied in an increase of the opportunities for the development of collective bargaining. Although the legal regulations remained the main source of employment rights, we have seen that the 1988 Constitution increased the opportunities for the progress of negotiations by strengthening this social institution. It became a legitimised means of regulation, which is especially perceived in the changes introduced in the wage policy over that decade.

I conclude that the shift in state orientation towards unions, which is expressed in the alterations of the legal background and public policies, and the rise of the trade union movement, indicate an enlargement of the opportunities for action on the part of the actors. But questions remain regarding the extent of the changes in the Brazilian industrial relations system, in particular regarding the extent collective bargaining has increased its role in the regulation of industrial relations. The next chapter focuses on the assessments of the literature regarding the issue, contrasting the interpretations of influential authors.

CHAPTER FIVE

CONTRASTING INTERPRETATIONS

In this chapter I analyse the broad lines along which the debate about the extent of the transformations of Brazilian industrial relations in the eighties occurred. I identify what accounts for the differences between the arguments. The character of the changes of the eighties was studied by well-known and influential authors such as Siqueira Neto (1991, 1992, 1994a, 1994b), Rodrigues (1990, 1993), and Córdova (1985, 1989). Their studies were selected for analysis on the grounds that they are focused on the changes of the eighties as well as because of their distinctive views. The issue at stake is the extent and significance of the changes and whether or not the Brazilian system could still be classified as state corporatism. Upon these views were built the basic propositions that guide this research, which will be reported in the subsequent chapter.

The views of the selected authors fall into two broad categories. The first is that state corporatism was not dead. This view is broken down into one that claims that industrial relations was still marked by the logic of the old system (Siqueira Neto 1991, 1992, 1993, 1994a, 1994b) and into another that claims that state corporatism was in decline (Rodrigues 1990, 1993). In the understanding of Neto (1992: 8) and Rodrigues (1993: 31) the 1988 Constitution combined liberal and state corporatist elements, establishing a 'hybrid system' that, however, fell short from altering the basic nature of the old model. The distinguishing element of Rodrigues' view is that he suggests that the Brazilian system was in transition towards a liberal model of industrial relations. The second broad category claims that the Brazilian system was profoundly liberalised during the eighties and could no longer be described as state corporatist (Córdova 1989). According to the last author, the authoritarian corporatism was replaced by

system that is liberal (or pluralist) by nature despite the preservation of features of the past, namely the old union organisation and the compulsory union tax (Córdova 1989: 266).

The selected writings are not coherent enough to construct their argument in a complete way. This means that the theoretical backgrounds and the assumptions from which they depart, the benchmark they are referred to, and the criteria and evidence they use are not clearly stated in their papers. It was possible, however, to reconstruct their ideas based on the content of their works. In section 5.1 I summarise the different views in separate sub-headings. In section 5.2 I make a reconstruction of the arguments of the selected authors analysing, in separate, the theoretical background and the benchmark of the views, the criterion used by these authors to assess the nature of the changes in industrial relations, and the evidence the authors are based on. The findings of the analysis are critically discussed and compared in the last sub-heading.

5.1 The Contrasting views

In this section I present a summary of the different arguments. The corporatism-is-not-dead perspective is the first interpretation I study. It is broken down into Siqueira Neto's view and Rodrigues' view. Córdova's corporatism-is-dead view is examined in the last sub-section. A summary of the views of the selected authors, as regards to the different aspects I analyse, is given in Table 11.

5.1.1 The corporatism-is-not dead view

Based on the analysis of the legal regulations, José Francisco Siqueira Neto concludes that the Brazilian industrial relations were still marked by the logic of

corporatism³, which in his view is a combination of state control, repression and paternalism (Siqueira Neto 1991: 33; Siqueira Neto 1992: 6, 8, 40-41; Siqueira Neto 1994b: 234, 237, 240-241, 243-244). He claims that although liberalising the system to some extent, by removing the controls of the state over union internal affairs, the 1988 Constitution failed to dismantle fundamental features of the old system. In his understanding the Constituent Assembly established a (vaguely defined) 'hybrid model' (Siqueira Neto 1992: 8). He argues that workers' and employers' representative organisations were still dependent on the state and constrained in their freedom of action and organisation, which are key defining criteria of corporatism according to his definition. The lack of freedom is expressed in the preservation of the monopoly of representation, of the old rules regulating collective bargaining, and of the restraints to the right to strike by the Constituent Assembly (Table 11).

As regards to the union structure, Neto maintains that the regulations introduced by the 1988 Constitution fell short from improving union strength and from making unions more representative of workers' interests. Neto maintains that employees still lack: (1) freedom to organise at will – thanks to the preservation of the trade union monopoly principle; (2) financial independence from the state because of the preservation of the compulsory union tax; and (3) effective union workplace organisation due to the lack of legal provisions providing for protection of employees against employers' abuse of power inside companies (Siqueira Neto 1992: 40-42; Siqueira Neto 1994b: 241, 242-243). In the view of the author the lack of union strength and responsiveness to the interests of their members is a characteristic of state corporatism.

³ Neto portrays the old Brazilian system as 'corporatism' despite referring to authors, such as Cella and Treu (1991), that describe it as state corporatism in the same sense as defined in Chapter Two (Neto 1992: 40). I describe Neto's ideas using the same word employed by the author.

Table 11: Characteristics and the nature of the evolution of Brazilian industrial relations in the view of the three selected authors

Aspects	Authors		
	Siqueira Neto	Rodrigues	Córdova
The nature of the industrial relations system	State corporatism was not dead	State corporatism was not dead; in was in decline	Corporatism was dead; it was replaced by a liberal system
Benchmark	State corporatism	State corporatism	Quasi-corporatism
Criteria	Freedom to organise	Effectiveness of corporatist institutions in controlling conflicts	Propensity for conflict (or for co-operation) in industrial relations
Evidence	Legal background	Legal background, trade union movement, strikes	Legal background, strikes
Emphasis	Formal structural aspects	Organisational aspects	Attitudes
Provisions	Liberal and corporatist provisions are incompatible and generate conflicts	Corporatism is likely to remain in a relatively long period of decline; system in transition towards pluralism	-
Trade Unions	End rigid state interventionism Monopoly of representation and union tax preserved	End rigid state interventionism; Monopoly of representation and union tax preserved	End of union subordination to the state; Vestiges of corporatism preserved
The Right to Strike	More liberal but still restrictive	More liberal	Permissive
Collective bargaining rights	Still discouraged	Increased level of freedom	Some progress
Trade union movement	Limited progress	Progress	Progress
Strike activity	Increased	Soared	Soared
Collective bargaining	Real negotiations were scarce; Scope was stagnant; Dependency of parties on the Labour Courts	Progress of direct negotiations in large firms of modern sectors; enlargement of scope	Increase in number; Enlargement of the scope of agreements; Less state involvement

Sources: Siqueira Neto (1991, 1992, 1994a, 1994b); Rodrigues (1990, 1993); Córdova (1985, 1989).

According to Neto (1992: 8, 42; 1994b: 240-242) the 1988 Constitution did not only fail to create a liberal trade union system, but also caused a weakening of the trade union movement. He argues that by eliminating the approval of the establishment of new unions by the Ministry of Labour, the legislators provoked a further fragmentation of the existing employees' representative organisation to an extent unknown in pluralist industrial relations systems. This fact is confirmed by the data on the evolution of the trade unions in Brazil provided by the Brazilian Institute of Geography And Statistics (Instituto Brasileiro de Geografia e Estatística – IBGE) (see Table 9). According to him, the setting up of new unions (and employers' associations) led to a rise of inter-union

conflicts around the jurisdiction of the new and old organisations and was making the system unmanageable. The author does not elaborate further on this subject.

Neto (1992: 42-43; 1994b: 242-243) maintains, moreover, that the lack of rules dictated by the Ministry of Labour regarding the form of organisation of employees caused distortions within the existing union structure. Since 1988 employee representative organisations were no longer required to be organised according to the official statute book formerly provided for by the Ministry of Labour. According to the author, this encouraged many unions to enlarge the board of directors from the former legal maximum of 10 members to up to 90 or 100 members. Neto suggests that this is likely to raise administrative problems and to weaken the trade union movement.

Another institution that embodied the corporatist nature of the Brazilian industrial relations system was, in Neto's understanding, the set of regulations on the right to strike established by Law 7783 of 1989 (Siqueira Neto 1994b: 248-251). This law regulated the constitutional strike provision of 1988. According to the author, this Law was repressive by nature and negatively affected union bargaining power. In his view, though it did not prohibit strikes, it constrained this type of industrial action by: (1) outlawing those strikes that were not aimed at defending employees' 'professional interests' ('interesses profissionais'), namely the political strikes; (2) outlawing stoppages in 'essential economic activities and services'; (3) introducing the concept of 'abusiveness' ('abusividade') (Siqueira Neto 1994b: 248-251). Abuses were defined in the law as: (1) actions that may put at risk the health and safety either of those involved in the conflicts or of the population; (2) situations in which strikes either are held after the agreements are established or after arbitration awards are issued; (3) actions that disregard 'bureaucratic requirements', which included: (a) quorum of workers' assemblies in which strikes are decided; and (b) a 48-hour in advance notification to

managers. Neto points out, moreover, that the law was unilateral since: (1) it defined as abuses only those that might occur on the employees' side, never on the management's side; (2) there were no provisions guaranteeing unions the right to counterclaim (Siqueira Neto 1992: 39-39; Siqueira Neto 1994b: 249-251).

Siqueira Neto (1991: 11, 17-18; 1992: 27-30, 37, 44; 1994b: 245-248) maintains that the corporatist nature of the industrial relations system of the late eighties is also expressed in the restrictive regulations of collective bargaining. First, the author suggests that negotiations were hampered by the legal 'time rigidities' as employers were obliged to negotiate only once a year, at the reference date, i. e. the date of the legal annual renewal of the terms of the present agreement or arbitration award. There were no mechanisms encouraging or supporting negotiations in between these dates. Second, he maintains that negotiations were restrained by legal determinations that hindered the parties from adapting actual rules to specific situations. Third, the development of negotiations was also hindered by the Labour Courts' involvement. Neto argues that conflicts tended to be solved by the judges rather than by the parties themselves. Fourth, there was a lack of rules providing for the Ministry of Labour to supervise whether or not the terms set in collective agreements were met by employers.

Paternalism was, according to Neto's definition, another, albeit secondary, aspect of corporatism. This characteristic was expressed, in his view, in the legal compulsory union tax (and in the employers' associations compulsory tax as well) and in the normative powers of the Labour Courts (Siqueira Neto 1991: 17-19). In his understanding, the judges in the tribunals helped unions win gains they were not able to win by themselves.

In Neto's view, the implication of the preservation of basic corporatist features was the lack of more representative and more independent trade union organisations in

relation to the state (Siqueira Neto 1991: 3, 9, 10, 13, 17-18, 22-23; 1992: 8, 26, 41; 1994b: 240-241, 243-244, 251). In his view, this hampered further development of collective bargaining. The weakness of negotiations was expressed in the 'rare use' of collective bargaining (Siqueira Neto 1991: 3, 9, 22). There is, however, no further comment on the subject. He did not view the annual legal union-management encounters for the renewal of the terms of the settlements as real collective bargaining relationships. Neto argues that unions were unorganised and were helped by the judges in the Labour Courts to win gains. In his view, the involvement of the judges undermined the motivation of union directors to negotiate. Moreover, the author affirms that a great number of unions and employers' associations feared becoming involved in direct negotiations. The lack of development of collective bargaining was also expressed in the scope of the agreements that, in his view, had remained constant during the eighties. The author argues that very little of importance was won by unions. The author provides no further comments or information on the subject.

The progressive groups within the labour movement are seen by Neto (1992: 2-4) as a factor of change. He argues that before 1985 workers were able to achieve some conquests, namely: the setting up of the inter-union national confederations (such as the CUT and the CGT); the organisation of public servants in trade unions; and the right to strike, which was won in practice rather as being a concession of the state. The author suggests that after 1985 the advancement of the trade union movement in dismantling corporatism declined. The author gave no further details on the subject.

5.1.2 The corporatism-is-in-decline view

Leôncio Martins Rodrigues (1993: 31-33, 35-36), like Neto, maintains that the Brazilian industrial relations system of the early nineties was state corporatist by nature. However, in contrast to Neto, Rodrigues believes that the old system was in decline.

The author maintains that industrial relations were undergoing a phase of transition from corporatism towards a liberal system of labour relations – see Table 11 for a summary of the ideas of this researcher.

Rodrigues (1990: 72, 69; 1993: 31) asserts that state corporatism was not dead thanks to the preservation of key features of the 'old' industrial relations system by the 1988 Constitution, namely: the official trade union organisation, the union tax, the Labour Courts and the protective legislation of the individual employment relationship. The core feature of state corporatism was, in his view, the official union organisation. This institution was preserved thanks to the ratification both of the trade union monopoly principle and of the compulsory trade union tax. According to the author, these aspects imply to some extent state tutelage and intervention in union affairs and in industrial relations at large, which is viewed by him as an intrinsic feature of the authoritarian corporatism. Despite the lack of freedom to organise at will, however, Rodrigues argues that throughout the eighties unions considerably increased their autonomy in relation to the state. This is expressed in a number of rules established by the 1988 Constitution, namely: 1) the elimination of the authoritarian controls of the state over union internal affairs; 2) the freedom to organise new unions without government authorisation; 3) the increase of freedom of collective bargaining; 4) the right granted to workers to elect shop stewards. The combination of state corporatist and liberal regulations produced, in his view, a rather vaguely defined 'hybrid system' (Rodrigues 1993: 31). There are no further comments on this subject.

In the view of Rodrigues (1993: 35-36) state corporatism would not endure. He believes that the old system was 'in decline'. This expression is not properly defined. It is implicit in his works that 'decline' refers to the lack of effectiveness of the old mechanisms of regulation of industrial relations aimed at keeping labour disputes under

control (or at preventing conflicts from occurring) and at preventing workers to organise outside the boundaries fixed by the law. The author suggests that the increase of autonomy of unions in relation to the state indicates that the system was in transition towards a liberal type of industrial relations (Rodrigues 1990: 70-72). There is no further discussion of this issue.

Rodrigues (1993: 33) argues that the decline of state corporatism is indicated by a number of aspects. The first and most important was the rise of the strike movement and of the inter- and intra-union struggles throughout the eighties and early nineties. According to Rodrigues (1993: 33) the intensity of the stoppages indicates that the old system “lost its functionality”. That is to say, the rise of conflicts in industrial relations reveals, in his understanding, an “increasing lack of capacity” of the government to control and solve conflicts. It is here that Rodrigues’ ideas contrast most starkly with Neto’s. Neto implies that the state corporatist institutions and legal regulations were still effective in controlling union actions in the early nineties.

The second aspect indicating the decline of the authoritarian corporatism was the organisation of workers outside the boundaries fixed by the CLT during the eighties. This is indicated by the organisation of public sector workers’ unions in disregard of official regulations. It is also expressed by the setting up of independent and competing union confederations, such as the CUT and the CGT. The author argues that the establishment of different union confederations introduced plurality, competition and ideological disputes into the system (Rodrigues 1993: 33-35).

The third indicator of decline was the lack of support the old system received from dominant groups of Brazilian society. Rodrigues (1993: 31, 35) affirms that in the late seventies state corporatism was under the attack coming from the new unionism. In the late eighties, however, the dismantling of all the remains of this type of corporatism

became the aim of employers, the groups that defended the system in the past, while it was being supported by unions.

Finally, the fourth indicator of the decline of the old system was, according to Rodrigues (1990: 70; 1993: 33-34, 36), the progress of collective bargaining. The author maintains that, throughout the eighties, an increasing number of unions and employers sought to solve their conflicts by means of direct negotiations. He asserts, however, that until the early nineties the progress of collective bargaining was circumscribed to the modern sectors of the economy, and especially (though not exclusively) to few firm-level negotiations – in few large companies. Moreover, the author maintains, rather vaguely, that the ‘scope of the negotiations’ broadened during the eighties. The author does not provide evidence or elaborate further on this subject.

Rodrigues (1993: 32) points out five factors that, in his understanding, were undermining state corporatism. These factors were the following: (1) the increase of union autonomy and of union power; (2) the emergence of new political groups within unions; (3) the end of the authoritarian political regime; (4) the introduction of automation, computing and new management styles in enterprises; and (5) the financial crisis of the state.

The first aspect, the rise of ‘union power’, is viewed by Rodrigues (1993: 32-34), as the most important factor undermining the authoritarian version of corporatism. It is rather vaguely defined as the ‘increasing capacity of labour leaders to ... influence national decision-making’. According to the author, the rise of ‘union power’ is indicated by the setting up of many new unions, the increase of union membership, and the rise of white-collar union activism. The white-collar Rodrigues refers to are civil servants, health sector workers (doctors, nurses, attendants, clerks and other hospital employees), workers in the education sector (university professors, teachers and other

school and university employees), and 'other middle class categories'. In Rodrigues' view, the increase of the number of unions made it more difficult for the Ministry of Labour to control these organisations.

The second factor undermining state corporatism was the appearance of new political groups within the trade union movement. The author maintains that all the new groups, moderate or radical, rejected union subordination to the state and valued autonomy of action (Rodrigues 1993: 32).

The third factor was, in his view, the end of the authoritarian military regime. The author argues that the political liberalisation process of the eighties created a favourable environment for workers' activism and made it more difficult for the government to punish rebel union leaders (Rodrigues 1993: 33). Given the lack of capacity of the government to keep unions in line, the leadership further disregarded the actual state corporatist regulations, namely, the prohibitions to the right to strike and to establish union confederations.

The fourth factor was the introduction of new technologies in the enterprises. Rodrigues (1993: 32) does not elaborate much on the subject. He suggests that the introduction of micro-electronic technology in the production process and new management styles produced a far more complex economy and made the rules established in the CLT outdated. Direct collective bargaining between companies and unions would be, in his understanding, the mechanism that is most appropriate to the new environment. He contends that the progress of bargaining, which will happen, will undermine the role of the Labour Courts and hence further undermine state corporatism.

The fifth factor, the financial crisis of the state, also weakened the authoritarian version of corporatism since government became less capable to distribute benefits in a paternalistic manner. Since the old system was built, at least to some extent, upon

winning workers' support by distributing benefits, in the view of Rodrigues (1993: 32), the lack of financial resources favoured a decline of government control over industrial conflict.

Despite the signs of weakening, Rodrigues (1993: 36) does not predict an early end for this type of corporatist system. On the contrary, he believes, rather vaguely, that corporatism will likely remain in a relatively long period of decline with frequent reforms and attempts to conciliate liberal principles with state corporatist ones.

5.1.3 The corporatism-is-dead view

Efrén Córdova (1989: 267) maintains that fundamental changes took place in Brazil during the eighties and concludes that the Brazilian system set up during the thirties could no longer be classified as 'quasi-corporatist'. In the author's view, two essential elements of the old system have disappeared, namely, the presumption of class harmony and the trade union subordination to the state (see Table 11).

According to Córdova (1989: 264), the most far-reaching institutional and practical changes were those related to the balance between co-operation and disputes in the Brazilian system. He maintains that, by the late eighties, trade unions were no longer docile bodies expected both to co-operate with authorities and employers and to perform welfare functions. They became a 'real negotiating force' that did not 'shrink from resorting to direct action' (Córdova 1989: 264). In the view of the author this is manifested in the strike movement of the eighties. The strike wave became so strong that, in his understanding 'instead of reaching equilibrium, the pendulum in the co-operation/dispute equation may be said to have swung from one extreme to the other' (Córdova 1989: 264).

In Córdova's (1989: 264, 266-267) view, the 'old' model imparted a 'dysfunctional' character. This dysfunction was embodied in the requirement that legal

unions were both to co-operate with the state in promoting social solidarity and to perform welfare functions. He maintains that, sooner or later, this feature would produce rejections from the 'poorest sections of the population' aimed at cleansing the system of its 'oppressive, unjust and troublesome features' (Córdova 1989: 267). In his understanding, industrialised capitalist societies require, instead, free unionism and pluralist labour organisations. Free unionism is defined as the capacity of workers' to organise, to defend their interests and to act. Córdova suggests moreover that, since a conflict-based relationship was hampered in the past, a strong reaction of the 'poor' against authoritarianism of corporatism was predictable. Eventually, the reaction came during the eighties in the form of the wave of strikes, and of protest movements and 'radical actions' of the 'poor' (Córdova 1989: 267). The protests of the 'poor' were favoured by the combined effect of the constraints on trade union action and by the worsening of employment conditions. In his understanding, the 1988 Constitution liberalised the collective labour relations as a result of union pressures. In Córdova's view, it corrected the old system by eliminating the 'unnatural' features of the past, namely the authoritarian state controls over trade unions (Córdova 1989: 267). The legislators did not remain indifferent to the grievances of the 'poor' and broadened workers' individual employment rights.

For Córdova (1989: 261-262) the most far-reaching changes introduced by the legislators were those concerning collective labour relations. The alterations introduced in this field touched, in his understanding, the 'very essence' of the old industrial relations system, namely the right to strike, union organisation and collective bargaining (Córdova 1989: 261).

In the understanding of Córdova (1989: 265, 267), the rules regulating the right to strike were the most important ones. He maintains that the Constituent Assembly

established this right in the 'most progressive terms possible' (Córdova 1989: 267). In his view, all former restrictions were eliminated. The Constitution made workers responsible for deciding whether a strike action was appropriate and which were the interests they would defend.

The trade union organisation is another aspect of industrial relations pointed out by Córdova (1989: 261-262). In his view, the stress of the Constitution was laid on the voluntary nature of the representative associations, since the requirement of prior permission of authorities for establishing unions was dropped and interference of the state in union internal affairs was eliminated. These rules represented a drastic shift away from the former rigid state interventionism. Workers became free to organise, free to defend their interests, and free to create programmes of action that they considered appropriate.

Finally, as regards collective bargaining, Córdova (1989: 263-264) maintains that the Constitution introduced a rather modest progress. In his understanding, it encouraged the practice of negotiations by giving constitutional status to the agreements and by making the participation of unions in negotiations mandatory. The author points out that by making the participation of unions in negotiations mandatory, it impeded, however, work committees and other shop-floor groups from becoming bargaining units. In the short run, this would make a move of the bargaining structure from the municipal level towards lower levels unlikely.

In the understanding of Córdova (1989: 263), the changes in bargaining activity were much more important than those introduced in the legal background. The author maintains that during the eighties collective bargaining got over its past situation, which he describes as 'virtually meaningless and unimportant' (Córdova 1989: 263). According to him, in the period prior to 1978, 'few agreements were concluded, and

their meagre content and low effectiveness gave them a purely token value' (Córdova 1989: 263). In the view of the author, the progress of bargaining in the eighties was favoured by the revival of the trade union movement and by government authorisation introduced in 1979 for the parties to negotiate part of the size of wage increases (as described in Chapter Four). Córdova argues that in the late eighties bargaining was being undertaken by more groups and categories than ever before. He affirms, moreover, that agreements became more 'significant' than those of the past (Córdova 1989: 263). The author offers no definition of the criteria for deciding on what the meaning of 'significant' is.

Córdova (1989: 263-264) argues that collective bargaining was still constrained in its development mainly because the role of the Labour Courts was preserved by the Constitution. The courts hindered the progress of collective bargaining by 'refraining from releasing the negotiation process from the judges' involvement' (Córdova 1989: 264). Being empowered to prescribe rules and standards for the settlement of disputes concerning interests, the tribunals have always represented a tempting alternative to unions. The author maintains that by applying to the Labour Courts 'the parties were spared the effort of entering into negotiations and were immune to the risks of strikes and work stoppages'.

Nonetheless, the old system of industrial relations was not completely dismantled by the 1988 Constitution according to Córdova (1989: 256, 266-267). 'Vestiges' of the past remained in the form of the trade union monopoly and the compulsory trade union tax (Córdova 1989: 266). The author argues that the Constitution chose a 'compromise formula' by guaranteeing trade union freedom without pluralism (Córdova 1989: 267). That is to say, employees were impeded, as in the past, to join the union of their choice. In addition, workers were subjected to the

requirement of paying the compulsory union contributions. In contrast to Rodrigues and Neto, Córdova regards the trade union monopoly principle and the union tax as non-essential elements of corporatism.

Despite concluding that the old model has disappeared Córdova falls short from defining the new industrial relations. In my view, Córdova implies that Brazilian authoritarian corporatism was replaced by a system that is pluralist by nature and in which 'vestiges' of the past (namely the old union organisation and the compulsory union tax) remained (Córdova 1989: 266).

A final aspect pointed out by Córdova (1989: 257, 259) concerns the causes of change in industrial relations. In his view, one of the most important was the process of political liberalisation. A further factor was the appearance of the new unionism in the late seventies. Moreover, labour relations were also considerably affected by economic pressures expressed by high inflation rates and by the rise of the foreign debt. The author does not elaborate much on these subjects.

In this section I have shown that the selected authors agree on some issues such as classifying the old system as an authoritarian corporatism. However, with respect to the extent of the changes during the eighties their interpretations differ considerably. In the next section I compare the three different views more systematically and draw out what underlies the differences based on a rational reconstruction of their arguments.

5.2 Reconstruction of the ideas of the authors

This section is concerned with four different aspects, namely the benchmark of the studies of the authors, the criterion for assessing changes and the evidence on which their theories are based on. In section 5.2.1 I analyse the concept of corporatism given by the authors, reveal the core elements of the old system in the understanding of the researchers, and point out the aspects of corporatism that they emphasise. In section

5.2.2 I am concerned with the analysis of the criterion used by the authors to assess changes in industrial relations and in section 5.2.3 I am concerned with the evidence provided by the authors, the way the information is dealt with, and the reliability and the validity of the measurements. Finally in section 5.2.4 I critically discuss the findings of the analysis of the selected authors' studies, compare the different views, and point out their main weaknesses. A summary of the aspects highlighted by the authors can be seen in Tables 11 and 12.

5.2.1 Benchmark

Siqueira Neto (1991: 8) describes the old Brazilian system of industrial relations as 'corporatist'. The author offers however no clear definition of the term. Nevertheless, we can draw out from his writings an implicit definition.

Neto (1991: 8, 11, 19; 1992: 6) employs the expression 'corporatism' to describe the features of the state corporatist system established during the thirties by the Vargas regime. He suggests that corporatism is a system of industrial relations marked by a logic of control and repression from which state interventionism and collaboration of official unions with the state derive. According to him, this type of system not only constrains freedom of organisation, but also determines legal forms of action on the part of the actors. The key institutions were: (1) the legal interest associations of employers and employees; (2) the right to strike; and (3) the collective bargaining regulations. According to Neto, the logic of corporatism was expressed both in the lack of freedom to organise at will, thanks to the monopoly of representation rule, and in the subjection of union internal affairs to state intervention. It was also expressed in the constraints set on the right to strike and to collective bargaining. In the view of this author, the legislation hindered negotiations by establishing the bargaining level (the local multi-employer or the firm levels), by fixing limits for the content of the agreements (i.e. they

were not to disrespect the spirit of the CLT), and by establishing the involvement of the Labour Courts. The concepts of control, repression and state intervention are not defined.

Table 12: Chief characteristics of the Brazilian industrial relations system before and after the 1988 Constitution according to the selected authors

Aspects	Before the 1988 Constitution			After the 1988 Constitution		
	Neto	Rodrigues	Córdova	Neto	Rodrigues	Córdova
UNION ORGANISATION						
Monopoly of representation	X	X	X	X	X	X
Union tax	X	X	X	X	X	X
State control and intervention over union affairs	X	X	X			
Welfare functions			X			
IDEOLOGY						
Class co-operation		X	X			
Elimination of conflict		X				
Paternalism			X			
RIGHT TO STRIKE¹¹						
Restrictive character	X	X	X	X		
Liberalised					X	X
COLLECTIVE BARGAINING						
Restrained by state	X	X	X	X		
Strengthened					X	X
PATERNALIST POLICY						
Protective rules of individual employment relations		X	X		X	X
LABOUR COURTS SYSTEM						
	X	X	X	X	X	X

Sources: Siqueira Neto (1991, 1992, 1994a, 1994b); Rodrigues (1990, 1993); Córdova (1985, 1989).

According to Siqueira Neto (1991: 16-19), the secondary features of corporatism, 'inducements' and paternalism, were aimed at inhibiting autonomous behaviour of workers and unions, at making them dependent on the state and at promoting co-operation. The compulsory union tax (and employers' association tax) was a powerful inducement to dependency and collaboration. Neto argues that the easy availability of financial resources, collected by the state, discouraged union officials from seeking new members. He argues that this negatively affected the strength of interest associations because, in general, the leadership was not motivated to be more responsive to the interests of members. The paternalist elements were embodied in the

normative powers of the Labour Courts. Neto argues that the tribunals helped (the weak) organisations to win gains that they would not be able to win on their own in negotiations.

Neto places the emphasis on formal structural issues. His analysis is focused on the legal regulations of the interest associations of employers and employees, as well as on the rules regulating the right to strike and the right to collective bargaining.

Leôncio Martins Rodrigues (1990: 54-57, 59) defines the old Brazilian system as a form of organisation of the social classes, imposed by the state, with the view of integrating capital and labour in hierarchical and non-conflicting associations. Following Schmitter's (1974) analytical framework, Rodrigues distinguishes between neo-corporatism and state corporatism. According to him, the old Brazilian model falls into the last category.

Rodrigues (1993: 30-31) emphasises the form of organisation of the social classes rather than the nature of state-interest group relationship. The most salient aspect of the state corporatist 'mode of representation of interests' ('modo corporativo de representação de interesses') was, in his understanding, the monopoly of representation (Rodrigues 1990: 53). The other significant features of the system were: (1) the organisation of the different categories according to the rules established in the Ministry of Labour's master plan; (2) the freedom of union membership; (3) the compulsory contribution of workers and employers to their respective associations; (4) the vertical organisation of the different categories of workers and employers; (5) the prohibition of the formation of the inter-union pluralist confederations; and (6) the Labour Courts. Rodrigues maintains that establishment and preservation of this form of organisation requires state authority and involvement in labour relations.

Another distinctive feature of Rodrigues' (1990: 60; 1993: 31) analysis is that he conflates state corporatism with the output of industrial relations. He argues that this system is primarily aimed at keeping labour conflicts under control and at promoting both class co-operation and co-operation between the classes and the state. The effect exerted by the authoritarian corporatism on labour relations is expressed, according to the author, in the level of conflict in industrial relations. Since state corporatism is, for him, a form of organisation imposed by the state, from which co-operation derives, he implies that the state has to be capable of ensuring the compliance of the actors to the rules. Rodrigues suggests that the power of the state derives both from the use of the repressive apparatus (the judiciary, the police and the military) and from paternalist policies.

The repressive side of the old system was, according to Rodrigues (1990: 63, 67, 68-69), embodied in the intervention of the state in union internal affairs and in the constraints to the right to strike. The paternalism was embodied in the workings of the Labour Courts, who help workers to win gains, as well as in the set of protective employment rights. Rodrigues maintains that the employment rights, which are seen as advantages granted by the system to workers, benefited primarily the less skilled workers. He argues that these workers had far more advantages under state corporatism than they would have been able to win, on their own, in a collective bargaining-based industrial relations system. He argues that this group of unshielded workers lacked proper organisation and bargaining power and were dependent on the protection of the state. He concludes that these segments, which were the majority of the working class, were the major supporters of the corporatist system. The author does not say in what way these segments supported the old system.

Efrén Córdova describes the old Brazilian industrial relations system as 'quasi-corporatism' (Córdova 1989: 251, 253, 255, 261, 266). The author however falls short in providing a proper definition, and in clearly stating in what way the Brazilian model was deficient in relation to a typical authoritarian corporatist model. Quasi-corporatism is rather vaguely viewed as 'a system of trade union control and co-operation imposed from above'. The author suggests that co-operation is obtained by the state not only by controlling interests associations, but also through paternalist policies. On this dimension there is no disagreement between him and Rodrigues.

According to Córdova (1989: 253-256, 267), the authoritarian side of the Brazilian system is derived from the corporatist ideology. It accentuated class harmony and the subordination of unions to the state. The authoritarian nature was embodied in the rules regulating collective labour relations. The chief characteristics of the old Brazilian system in regards to this aspect were: (1) the monopoly of representation; (2) the trade union tax; (3) the control and intervention of the state in union internal affairs; (4) the requirement that unions were to perform welfare functions; (5) the virtual prohibition of the right to strike; and (6) the Labour Courts system. The paternalist side of the Brazilian system was embodied in the legal regulations governing the individual labour contract.

We can speculate that Córdova (1989: 255) attributed to the Brazilian system a 'quasi-corporatist' nature due to the fact that the trade union structure did not connote a complete organic or functional monism at the national level. The author maintains, furthermore, that the authoritarian corporatist legislation was frequently not fully applied. For instance, the law established that there were to be parallel employers and workers organisations; however this did not occur in all cases. He also maintains that despite the legal interest associations of employers and employees being required to

perform public functions, 'this faculty was infrequently used in practice' (Córdova 1989: 255).

Córdova (1989: 267) disagrees with Rodrigues and Neto on the significance of the trade union monopoly principle as a defining characteristic of a corporatist system. He implies that monopoly does not necessarily mean the subordination of the union to the state. The author maintains, moreover, that there are countries that apply the 'single union' principle, but, in spite of this, they are not described as corporatist (Córdova 1989: 267).

Summing up, all authors view the old Brazilian industrial relations system (which they describe either as corporatism, state corporatism or quasi-corporatism) as a system that combines paternalism and constraints to the actions and organisation of employers and especially of employees. There are, however, substantial differences between the researchers regarding the importance attributed to these aspects. Neto sees state corporatism primarily as a form of authoritarianism, which is expressed in the constraints and controls established by the state. Rodrigues and Córdova, although agreeing that state corporatism was marked by authoritarianism, give more weight than Neto to the paternalist side of the system, which in their view was embodied in the legal rules regulating the individual employment contract and in rulings of the Labour Courts. Another relevant distinction between the authors concerns the significance attributed to the monopoly of representation. Neto and Rodrigues view this as a crucial element of the model set up during the thirties, while Córdova regards it as a secondary aspect. A final aspect that distinguishes the views of the authors is the issues they emphasise. Neto accentuates formal structural aspects, Rodrigues emphasises the form of the organisation of the actors, and Córdova highlights attitudes of the actors. From these views and respective emphasises derive the criteria with which the authors assess the

nature of the evolution of the Brazilian system during the eighties. This is discussed in the section below.

5.2.2 Criteria used to assess the evolution of industrial relations

In this section I show the different criteria used by the selected authors. The first criterion is the extent of freedom of employers and employees in relation to the state (Siqueira Neto 1991, 1992, 1994a, 1994b). The second is the effectiveness of state corporatist mechanisms in regulating industrial relations (Rodrigues 1993). The third criterion is the propensity for conflicts (or for co-operation) in industrial relations (Córdova 1989).

Neto takes into account the extent of state control over union organisation and actions. The author implies that under corporatism these organisations were almost totally subordinated to the state and constrained in their autonomy. His assessment of the nature of the changes of the eighties is made by reference to the model of industrial relations system he was proposing for Brazil in the early nineties, which he labelled 'Collective Labour Contract' ('Contrato Coletivo de Trabalho') (Siqueira Neto 1994b: 240-257). Neto's model implies an absence of state control and repression over union organisation and union actions.

In Neto's understanding, the extent of freedom is expressed in three related aspects: union organisation, the right to strike and collective bargaining. The key element is, in his view, the extent of autonomy workers enjoy both to establish their representative organisations and to run their activities without third party involvement. In the author's view, in the early nineties unions still lacked freedom to set up their own representative organisations thanks to the preservation by the Constitution of the union monopoly requirement. He affirms that after 1988 workers were still restrained in their autonomy because they were not free to organise at will (Siqueira Neto 1992: 41).

According to the author, union activities were also constrained by the legal regulations of the right to strike set in Law 7783 of 1979. Finally, in his view the autonomy of unions was hampered by the stifling collective bargaining regulations and by the paternalist role played by the Labour Courts (Siqueira Neto 1991: 17-18; Siqueira Neto 1994b: 234, 237). Neto concludes that the authoritarian corporatism was not dead since these features, which, in his view, are core aspects of the old system, prevailed. As regards to the labour movement of the eighties, and particularly as regards to strikes, the author views these facts as relevant social developments, though he treats them as not significant enough for the corporatist issue. The underlying idea is that either trade unions were not strong enough to dismantle corporatism, or they were not inclined to do so.

Rodrigues' criterion is the effectiveness of state corporatist mechanisms in eliminating or reducing conflicts. The author falls short from providing parameters within which a system could be considered effective or not. He rather implies that effectiveness is indicated by the capacity of the state to ensure that the parties to industrial relations comply with the official standards of behaviour. According to him, in the period prior to 1978 the two basic mechanisms used by the state were: (1) the means of coercion handled by the Ministry of Labour and (2) the distribution of social benefits (Rodrigues 1990, 1993).

The effectiveness criterion is not directly derived from the author's concept of state corporatism. It is rather originated from what he sees as being the output of industrial relations under the authoritarian version of corporatism, namely the extent of control the state managed to exert over deviant behaviour. The function of control, exerted by the government, encompassed constraints on the establishment of alternative forms of workers' organisations, on strike activity and on collective bargaining. The

author maintains that during the eighties state corporatist institutions became less effective in preventing conflicts and in moderating behaviour. The most salient deviant behaviours were, according to Rodrigues (1990: 70; 1993: 33-36), the strike movement, the setting up of independent union confederations and, to some extent, the development of direct negotiations. These developments are seen as substantive progress for the labour movement toward a pluralist industrial relations system. At the same time, they indicate, in his understanding, that authoritarian corporatism was challenged by the labour movement during the eighties. Despite the strength of the trade union movement, however, the author concludes that the old system was not dead yet because the workers were both not strong enough to dismantle state corporatism and, from the mid eighties onwards, less inclined to do so (Rodrigues 1993: 35-36). The author suggests that, although not dead yet, the old system was in decline because its effectiveness in containing deviant behaviour declined. Rodrigues (1993: 31-33, 35-36) does not elaborate much further on the subject. He simply suggests that the appearance of rival and independent national union confederations, the rise of the strike movement and the development of collective bargaining indicate that Brazil was in transition towards a liberal (or pluralist) industrial relations system.

The criterion used by Efrén Córdova to assess the nature of the evolution of the system is the propensity for conflict (or for co-operation) in industrial relations. The author assumes that a low level of conflict implies a high level of co-operation between the actors and of authoritarianism, and vice versa. Like Rodrigues, Córdova places the focus on the output of industrial relations rather than on the nature of (what he labels as) the quasi-corporatist system. Thus the criterion is not directly derived from Córdova's concept of corporatism.

Underlying the argument of Córdova (1989: 262, 265) is the idea that industrial relations systems could be characterised according to the propensity for disputes or, conversely, to the propensity for co-operation between the parties. According to him, the Brazilian system prior to 1978 used to be characterised by a very low level of labour disputes, which is seen as a characteristic attributed to the high level of authoritarianism (and hence by co-operation imposed by the state) prevailing in the system. Córdova maintains, furthermore, that union subordination to the state was coupled with the 'presumption of class harmony' (Córdova 1989: 267). Thanks to the elimination of these aspects, unions became free from the former 'iron control of the state' (Córdova 1989: 258).

Córdova (1989: 266) asserts that the dramatic increase in the number of labour conflicts reflects the 'profound liberalisation' of the employment relationship introduced by the 1988 Constitution. The author maintains that the industrial relations system was, in the late eighties, quite the opposite of the old days. According to the author the 'co-operation versus dispute equation...swung from one extreme to the other' (Córdova 1989: 264). Hence, since patterns of union-management relationship changed so dramatically, he concludes that the quasi-corporatist system was dead. Córdova, however, fell short from defining the new system. In my interpretation the author decided that, by the late eighties, Brazilian industrial relations could be viewed as a system that was pluralist by nature and in which 'vestiges' of the old model remained (Córdova 1989; 266).

Concluding, the above analysis shows that the authors use different criteria to assess changes in industrial relations over time. Neto derives his criterion from a model of industrial relations system he was proposing for Brazil. Rodrigues and Córdova built their criteria on the output of the industrial relations system. Rodrigues takes into

consideration a rather vaguely defined effect of state corporatist structures on patterns of behaviour of the actors. Córdova assesses the evolution of the system during the eighties in terms of the balance between propensity for disputes or for co-operation. None of the last two authors derive his criterion directly from the concept of corporatism. Córdova and Rodrigues interpret labour conflicts in a different manner. Rodrigues regards them as expressions of increasing lack of effectiveness of the authoritarian corporatist institutions, while Córdova views them as new patterns of labour relations. Córdova suggests that the rise of conflicts in the eighties is an indicator of changes in the status of unions in industrial relations. According to him unions became a 'real negotiating force' and were no longer 'docile bodies' in the authorities' hands (Córdova 1989: 264). Rodrigues and Neto, in contrast, although recognising the rise of the trade union movement, argue that workers were unable to remove the state corporatist legacy yet. The evidence the conclusions of the selected researchers are based on is the concern of the next section.

5.2.3 Evidence used in the analysis

By evidence I mean the types of data and respective sources of information that are used by the authors to support their arguments, as well as the type of analysis carried out on the data and the reliability and value of their conclusions. A general observation is that the authors use a variety of types of data, which range from legislation to quantitative data. The focus of this subsection is on data of unions, strikes and collective bargaining.

Neto's argument is based on the analysis of the legal background, namely on the 1988 Constitution and on the labour legislation issued in the late eighties and early nineties. The author also occasionally uses supplementary sources of evidence: (1) union conference documents; (2) pronouncements of employer and employee

representatives regarding their views about supplementary legal regulations of constitutional provisions; and (3) lists of demands of the metal workers federation of the state of São Paulo, Brazil (Siqueira Neto 1991: 12-15, 27-30). The author does not provide further information on whose pronouncements he took into consideration and when they were made. As regards to evidence on the evolution of collective bargaining, the author refers to a research report of Aguirre (1985), published by the Brazilian Institute of Labour Relations (Instituto Brasileiro de Relações de Trabalho - IBRART), as well as to a set of data on the scope of agreements established in the state of São Paulo that were published by Official Press of the State of São Paulo (Imprensa Oficial do Estado de São Paulo – IMESP) in 1987 (Neto 1991: 23). The study of Aguirre includes the most comprehensive set of data of the early eighties (namely from January 1982 to June 1984) concerning the evolution of bargaining procedures and of the scope of the agreements in the states of São Paulo, Rio de Janeiro and Minas Gerais. Apart from being focused on the central areas of Brazil, the deficiency of these sources of information is the rather short time period they cover. The weakness of Neto's analysis is that he does not seem to acknowledge these limitations. Another fragility of Neto's argument is related to the evidence on characteristics of the collective bargaining relationships. The author maintains that, in general, union directors lack real motivation to negotiate and that they rely excessively on the judges in the labour tribunals for the settlement of their disputes with management (Siqueira Neto 1991: 17-18). Neto however does not present reliable data as regards to these issues. We may conclude that although he makes a solid analysis of the legal aspects, as regards to collective bargaining there is a lack of data, and that his conclusion is not necessarily justifiable.

Leôncio Martins Rodrigues' analysis on the evolution of strikes is consistent with evidence. It is based on a comprehensive account of the subject published by

NEPP-UNICAMP in 1988 and in 1989. His conclusions on unions and union membership were drawn from a trade union research published by the Instituto Brasileiro de Geografia e Estatística (IBGE) in 1989 are also reliable. Moreover, the argument on the nature of the changes of the legal background is solid since it is based on the analysis of the CLT and of the 1988 Constitution. However, as regards to collective bargaining, he offers no evidence to support his argument. Since they are not based on solid research, this author's conclusions on the subject could be considered mere speculation.

Finally, the first source of information used by Efrén Córdova (1989) is the 1988 Constitution and the CLT. A key aspect in Córdova's argument is the amount of conflict in industrial relations, in particular of strikes. Despite stressing this issue, the author produced little evidence on the subject and does not inform the reader of the sources of information his argument is based on. As regards to collective bargaining, Córdova uses statistics published by IBRART (Aguirre 1985), like Neto, and by the Ministry of Labour. The conclusions of the author with respect to the amount of conflicts in industrial relations are correct, though not supported by data. The conclusions regarding the increase in the total amount of cases of negotiations during the eighties, of direct negotiations, as well as of firm-level understandings, are based on data for the period ranging from 1977 until 1984. The weakness of his analysis is, firstly, the rather outdated time series he is based on. Secondly, there is no evidence taken from the files of the Labour Courts. This means that his conclusion regarding the increase of autonomy of the parties in relation to the tribunals is not reliable. Thirdly, the author also does not provide solid evidence on the behaviour of unions and management. Given these weaknesses, the conclusions as regards to the evolution of negotiations are also not totally justifiable.

Concluding, the analysis of the selected authors regarding the legal background is based on evidence and is reliable. Regarding this issue the only difference between the selected researchers is that Neto, in addition to the study of the provisions established by the 1988 Constitution, analysed pieces of labour legislation issued in the late eighties and early nineties. The other two authors based their conclusions on the study of the CLT and the 1988 Constitution only. This did not affect their assessments regarding the nature of the evolution of the legal background since there were no constitutional amendments altering the spirit of the law between 1988 and 1991. However, as regards to changes in union organisation and to the strike movement, only Rodrigues' analysis is solid. Although lacking supporting evidence, Córdova's conclusions on the same subjects are consistent with real developments. The considerations of the three authors regarding the evolution of collective bargaining are rather weak because they lack solid research. I conclude that the lack of data on this subject hinder the authors in capturing the changes in the nature of union-management relationships.

5.2.4 Discussion

In this section I compare the argument of the selected authors and point out the factors that account for the differences between them. I also point out the strengths and weaknesses of their studies.

I conclude that the differences between the arguments derive from the concept of corporatism, from the aspects they emphasise, and from the criterion the authors use to assess changes in industrial relations. In my view, the evidence analysed by the authors played a minor role in determining the nature of their arguments.

We have seen, in the first place, that the three researchers use different terms to label the system established during the thirties. Neto labels it as corporatism, Rodrigues

as state corporatism and Córdova as quasi-corporatism. Apart from Rodrigues, the other two authors provide a rather vague definition of the term they employ. Despite the differences, all agree that the old Brazilian system was an authoritarian type of corporatism. We also have seen that the idea of end or permanence of corporatism supported by the authors is always referred to in terms of the termination or preservation of the Brazilian state corporatist system. Apart from Neto, who, in the early nineties, proposed an Italian-type of industrial relations system to be established in Brazil, the other two researchers do not clearly state what type of system they think would be set up after the end of the state corporatist system (the case of Rodrigues), or what type of system had replaced state corporatism during the eighties (the case of Córdova). We have seen that Neto and Rodrigues suggest that the 1988 Constitution established a hybrid arrangement that, nevertheless, in their eyes, was still state corporatist by nature. This is why I conclude that the last two authors still believed that the state corporatist system was not dead. We have also seen that in Rodrigues' view the Brazilian system was moving towards a vaguely defined 'liberal' model, which I interpret as being a pluralist system (Rodrigues 1993: 31-33, 35-36). Finally, Córdova did not define the new system he believes has replaced the authoritarian corporatism. He rather states that the Brazilian model was profoundly liberalised despite 'vestiges' of the old system having remained (Córdova 1989: 266).

In my understanding, the principal factor that led to the distinct assessments is the way the researchers define corporatism (or the equivalent term they use). Neto, for instance, views corporatism rather vaguely as a system imbued with a control and repressive logic. From this, the emphasis on legal regulations derives, which, according to him, express the nature of the system. He maintains that the corporatist logic is embodied in the rules regulating union organisation, the right to strike, and collective

bargaining. Rodrigues views corporatism as a form of organisation of employers and employees imposed by the state. He assumes that the corporatist type of organisation of employers and employees, which is shaped according to the monopoly of representation principle, contains or eliminates conflicts in industrial relations. From this Rodrigues' emphasis on structural aspects derive. Finally, Córdova views corporatism as a system of trade union control and of imposition of co-operation by the state. From this definition his emphasis on the attitudes of the actors is brought up. The author assumes that patterns of behaviour reflect the extent of state intervention in industrial relations. According to him, high levels of state control would be expressed in the lack of conflicts in the system and vice versa.

A further issue that accounts for the differences between the authors derives from the criterion they adopt to assess the nature of the evolution of the Brazilian system during the eighties. The distinctive criteria, in turn, relates to their definitions of corporatism. The different criteria lead to distinctive conclusions. In Neto's view, corporatism would have been dismantled if the principles and institutions in which the repressive logic of corporatism is expressed were replaced by alternative ones. The author has in mind a model of industrial relations characterised by a lack of constraints on union organisation and actions in which collective bargaining would be the principal means of regulation of industrial relations. The assessment of the character of the legal rules introduced by the 1988 Constitution (and after) is made by comparison with that normative model. Since the new rules did not fit the standards he had in mind, he concluded that the old logic still prevailed and, hence, that state corporatism was not dead. Since it is based on normative propositions, which are embodied in his 'collective labour contract' proposal ('Contrato Coletivo de Trabalho') (Neto 1994b: 233-254), I conclude that his study has a normative character.

Rodrigues derives his criterion from the presumed effect the state corporatist arrangement has on labour relations. In his view, the crucial issue is the effectiveness of the authoritarian corporatist organisation of capital and labour in keeping disputes under control. In Rodrigues' understanding, the rise of the strike movement and the setting up of independent union confederations during the eighties indicates that the legal organisations of workers and employers were becoming less effective in inhibiting deviant behaviour, and hence that their functionality was in decline. The author assumes moreover that these changes indicated that the old system was moving from state corporatism towards a liberal model of industrial relations. Since the author falls short from defining the type of industrial relations that will be established in the future in Brazil, I decided that he had a pluralist system in mind.

In Córdova's view, the nature of the quasi-corporatist arrangement is expressed in patterns of labour relations. The author assumes that the changing patterns of behaviour, expressed in a greater propensity for conflict than for co-operation in relation to the past, indicate that the principles upon which corporatism was built have disappeared and, hence, that the authoritarian quasi-corporatist system was dead. This author does also falls short from providing a clear definition of what system he thinks replaced the old arrangement. He simply affirms that industrial relations in Brazil was profoundly liberalised – i. e. that the subordination of unions to the state and the presumption of class harmony were eliminated - and that 'vestiges' of the past (the old trade union organisation and the compulsory union tax) remained.

Finally, we have seen that the three authors do not provide solid evidence regarding the evolution of collective bargaining during the eighties. The information regarding the level of the understandings, the degree of dependence of the parties to the Labour Courts and, especially, the behaviour of the parties in negotiations is very weak.

This is why their conclusions regarding these aspects are little more than speculation. I conclude that the contrasting assessments derive from the way they define corporatism, the aspects they emphasise, and from the criteria they use rather than from the study of the reality of bargaining.

The arguments of the three authors have strengths and weaknesses. The major strength of their studies is the accurate analysis of the changes of the legal background, especially of those introduced by the 1988 Constitution. Here, the extensive analysis of the law made by Neto stands out. Another strong point of the studies is the description of the developments in the broader environment during the eighties, particularly of the changes experienced by the trade union movement. This is especially the case of the work done by Rodrigues. Conversely, in my understanding, one of the major deficiencies is related to the concept of corporatism. Neto defines corporatism rather vaguely in terms of a specific logic imbued in a system. In other words, it is seen by this author as a general feature of the institutional culture of Brazilian industrial relations. The author does not identify all the dimensions of this type of relationship between state and interest associations, as outlined in Chapter Two. He also fails to distinguish the different types of corporatism. In spite of attributing the lack of freedom in Brazilian industrial relations to corporatism, the author was proposing, apparently without realising it (or clearly stating it), the setting up of another type of corporatism (namely, a neo-corporatist arrangement), which is embodied in his 'Collective Labour Contract' proposal. The deficiency of Rodrigues' concept of corporatism is, in my judgement, related to the significance he attributes to the form of organisation of employers and employees. The emphasis he places on this aspect affects his perception of changes in fundamental elements of corporatism in general, such as the legal recognition dimension and especially the performance of the public functions dimension. Finally, Córdova

makes some incorrect assessments regarding the nature of the Brazilian state corporatist arrangement. On the one hand, he points out, correctly, the central dimensions of corporatism, such as the legal recognition, the attribution of public status, the performance of public functions, and the control of internal affairs. On the other hand, he calls attention to the symmetrical structure of employers' and workers' organisations. Since, in his understanding, the Brazilian system lacked the total submission of the actors in relation to the state, and since it did not entail a complete functional parallel and hierarchical organisation at the national level, he concludes that the old Brazilian system was 'quasi-corporatism'. In other words, it is seen as a less developed form of corporatism based on the analysis of the form of organisation of the actors and on the levels of control exerted by the state. In my judgement this assessment is not correct. According to Williamson (1989: 213), the level of development of corporatism is measured in relation to the variety of roles in the implementation of public policies performed by the interest associations. With respect to the lack of total submission of unions to the state, the author does not provide elements to prove his point. With respect to the performance of the public functions dimension, I conclude that Córdova incorrectly stated that Brazilian unions infrequently performed functions delegated by authorities, in practice, in the period prior to 1978. I rather assume the opposite. In my view, the most important public function the legal unions were required to perform was co-operating with the state in promoting social solidarity – see Chapter Three. The promotion of class co-operation does not necessarily involve unions playing an active role, but rather a passive one.

We have seen that the strong point of the studies of the three selected authors is the description of the changes in the legal background of industrial relations. Rodrigues' study is particularly rich in describing the changes experienced by the Brazilian trade

union movement during the eighties. I have shown however that they have some weaknesses. Apart from problems of definition of corporatism, they are particularly deficient in assessing the significance and the extent of changes in the regulation of industrial relations. In the writings of the selected authors this aspect is regarded a secondary element of a system. Rodrigues and Córdova regard the legal regulation of the individual employment relationship as expressions of state paternalism. As regards to collective bargaining, the conclusions of the authors concerning this issue are little more than speculation due to the lack of evidence. An aspect that all the selected authors have in common is that they regard the rulings of the Labour Courts as hindrances to the practice of bargaining.

Conclusion

In this chapter I have reconstructed the ideas of three selected researchers. We have seen that they have conflicting views regarding the nature of the evolution of Brazilian industrial relations during the eighties and early nineties. All these authors believe that industrial relations experienced changes during the eighties, however they disagree in relation to the extent and the significance of the alterations. Neto and Rodrigues, although conceding that the system was liberalised, believe that it remained state corporatist by nature. These two authors derive their conclusions from the fact that the 1988 Constitution preserved the old union organisation. Although agreeing with Neto in that the basic features of the old system were preserved, Rodrigues assumes that industrial relations were in a phase of transition from state corporatism towards a vaguely defined by him liberal model, which I interpret as being a pluralist industrial relations system. Córdova, in contrast, maintains that the old system changed radically, so that it would no longer be correct to define it as 'quasi corporatist'. In the view of this author the Brazilian system was profoundly liberalised, although vestiges of the

past have remained. Since he did not define the system that replaced the authoritarian model of corporatism, I decided that Córdova believed that the new system was pluralist by nature, and in which some vestiges of the past, namely the old union organisation and the Labour Courts, remained.

In my view none of the arguments is totally convincing. I have shown that the different theories have strengths and weaknesses. The major merit of these studies is that they provide an extensive account of the changes in the legal background during the eighties. The major deficiency is that they fall short from providing an analytical tool that enlightens actual, and perhaps not so minor, changes in the nature of social interactions. The stresses on legal aspects, on forms of organisation of the actors, and on patterns of behaviour hinder the identification of changes in the regulation of industrial relations and, more specifically, in collective bargaining

I designed a research project aimed at overcoming the limitations of these theories. The study is particularly concerned with changes in features of the regulation of industrial relations, an aspect none of the authors has sufficiently taken into account or analysed. I assume that by studying this aspect I may assess more precisely than the selected authors the extent and the nature of the changes in industrial relations. The contrasting assumptions of the authors – namely, that state corporatism was not dead, that state corporatism was in transition towards a pluralist industrial relations model, and that state corporatism was dead - are the propositions that will be tested by the empirical analysis carried out in Chapters Seven and Eight. The research design and the research methodology of this study are outlined in Chapter Six.

CHAPTER SIX

RESEARCH DESIGN AND RESEARCH METHODOLOGY

In this chapter my aim is to outline the research design and describe the research methodology of this thesis. The main objective of this study is to test the contrasting assessments of the extent to which the Brazilian industrial relations system changed between 1978 and 1991 by shedding light on the evolution of collective bargaining. As we have seen in Chapter Five, according to one view, in the early nineties the system could still be characterised as state corporatist (Siqueira Neto 1991, 1992, 1994a, 1994b; Rodrigues 1990, 1993). Another view claims that industrial relations were in transition from state corporatism towards a liberal system of industrial relations. Finally, a third perspective maintains that state corporatism was dismantled and was replaced by a liberal industrial relations system (Córdova 1989). I assume that the literature left questions unresolved as regards to the extent of changes in the form of regulation of industrial relations. None of the selected authors has systematically analysed this issue. I argue that there is a lack of research particularly on the developments in collective bargaining, its significance, and on the extent its evolution was affected by the changes in the political and economic environments.

In section 6.1 I outline the research design. I outline the basic assumptions on which this research is based and present its propositions and the specific research questions. I define, in addition, the time period and population the research covers, and present the general analytical scheme and the research hypotheses. In section 6.2 I am concerned with the evidence and with the research methodology. I present, in separate subsections, a description of the types and sources of information I use in this research,

the steps followed during the field work, the methods employed in the interviews and, finally, the way I analyse the empirical data.

6.1 The research design

The first sub-heading of this section (6.1.1) is concerned with the assumptions this research is based on. The research questions are presented in section 6.1.2. The time period under consideration and the population analysed is the concern of sections 6.1.3 and 6.1.4, respectively. Finally, the general analytical scheme and the research hypothesis are presented in section 6.1.5 and section 6.1.6, respectively.

6.1.1 Research assumptions

My basic assumption in this research is that the nature of an industrial relations system is expressed in features of the regulation of labour relations. This in turn is expressed in the methods used by the actors to regulate their interactions. Another assumption is that the nature of industrial relations systems could be assessed by analysing features of collective bargaining. I have shown in Chapter Two that the extent of development of collective bargaining and the role it plays in the regulation of industrial relations varies in different types of systems. I maintain that changes in patterns of negotiations – and, hence, in industrial relations – are indicated by alterations in characteristics both of union-management collective relations and of the bargaining scope.

I also assume that a given form of combination of methods of regulation of industrial relations is an expression of a given crystallization of power relations in society. The power of the actors is expressed in their status, which defines the actors' authority in regulating their relationships. Changes in the power structure imply transformations in the relative authority of the actors, and hence in their status in

establishing and administering rules. The status of the actors is, in turn, expressed in the legal background. I posit, in addition, that by identifying the changes in the form of regulation of industrial relations through time we can infer actual changes in the nature of the employer-employee relationship and hence assess the nature of the evolution of a system through time.

Based on the abovementioned assumptions, I outlined a general proposition, namely, that the extent of the development of collective bargaining in a given society describes the nature of an industrial relations system. Accordingly, collective bargaining may be taken both as an indicator of the nature of an industrial relations system and of the nature of the evolution of a system through time.

6.1.2 The research questions

The basic issue I am addressing in this research is to what extent the industrial relations system changed between 1978 and 1991. The study is based on an empirical research of the evolution of collective bargaining in the state of Rio Grande do Sul between 1978 and 1991.

The basic questions asked are:

1. To what extent did collective bargaining develop in Rio Grande do Sul from the late seventies up to the early nineties and what is its significance?

This question is broken down into the following related issues:

- To what extent did collective bargaining relationships develop?
- To what extent did employment conditions become subject to the negotiations?

2. Another set of questions is concerned with the impact of the new developments in Brazilian society during the eighties in industrial relations. Regarding this aspect the basic question and related issues are:

- What was the impact of the new developments of the eighties on collective bargaining?

The related issues are:

- To what extent did the political liberalisation and the changes in the legal background affect collective negotiations?
- To what extent did the changes in the economic context affect collective bargaining?

6.1.3 The period under consideration

The time period of this research, from 1978 until 1991, was chosen on the basis of the changes in the power context, in the economic context, and in the patterns of behaviour of the actors, particularly of trade unions. The landmarks of this period were the political liberalisation process, the economic crisis and the increasing strength of the trade union movement.

The power context was broken down into two sub-periods: the military regime and democracy. The first sub-period was characterised by the decline of the authoritarian political regime. It starts in 1978, the last year of the General Geisel administration, and ends in 1984, the last year of the General Figueiredo administration. These years were marked by political and social unrest, and by the upsurge of the new unionism (see Chapter Four). The democratic period, which was marked by the political liberalisation process, includes the Sarney administration (from 1985 until 1989) and the first two years of the Collor administration (which lasted from 1990 until 1992). The year 1992 was excluded from this research since it was an atypical year marked by social and political unrest and by the impeachment of the President of the Republic by National Congress.

Another aspect that characterises the period under consideration is the decline of the development model based on the import substitution strategy set up in the thirties. The economic crisis is expressed in the low rates of growth in average, in the rise of internal and external debts, hyperinflation and the decline of the purchasing power.

Finally, the period considered by this research was marked by the rise of the new unionism and by the long wave of strikes, which started in 1978 and reached its peak in the early nineties. During these years, union leadership and union practices were renewed. Workers became involved in the struggle against authoritarianism and demanded the enlargement of union rights, as well as the right to participate in the regulation of industrial relations through free collective bargaining.

6.1.4 The Population

My study is concerned with the evolution of industrial relations in Rio Grande do Sul, the southernmost state of Brazil. This state was chosen, firstly, because of the size of its economy. In 1993, the gross domestic product of this state accounted for around eight percent - US\$ 38.6 billions - of the Brazilian Gross Domestic Product (US\$ 467.3 billions) (FEE 1994, 9-30). Secondly, the regional manufacturing industry was in 1990 the fourth in size in the country. It accounted for 9.5 per cent of the product of the national manufacturing industry and 35.4 per cent of the regional GDP (FEE 2000: 2; FEE 1997: 8). Furthermore, in 1991 the number of employees of the manufacturing industry in Rio Grande do Sul accounted for around 30.0 per cent of the regional workforce (Pichler 1999, 53). The underlying assumption is that that collective bargaining is likely to develop in a region in which a geographically centralised manufacturing sector, that has enterprises that employ a considerable number workers, exist.

Thirdly, I also assume that negotiations are likely to progress if there is a well-organised trade union movement, especially if it is committed to the principles of the new trade union movement (see Chapter Four). The new unionism was firmly entrenched in Rio Grande do Sul. Some of the founders of the CUT (Confederação Única dos Trabalhadores), the most powerful trade union confederation of the country, were acting in this state; for example, Olívio Dutra, the director of the employees in the banking sector, and Paulo Paim, the director of the employees in the engineering industry of the municipality of Canoas. Moreover, in 1988, Rio Grande do Sul was, after São Paulo, the state in which the actors to industrial relations were most organised. The number of trade unions and employers associations in this state was almost as high as in the state of São Paulo, the most populated and industrialised region of the country. In 1990, the number of registered interest associations of employers and employees in Rio Grande do Sul accounted for 10.6 per cent of the total in Brazil, while in the state of São Paulo it accounted for 13.7 per cent (IBGE 1996: 23).

A fourth reason that can be invoked to justify the selection of Rio Grande do Sul was the existence both of studies and of systematised data on the bargaining scope, as well as on bargaining procedures in the state (Arandia et al. 1990; Pichler 1983). In other regions of the country this type of evidence (especially long time series of data) was not available and it would demand the setting up of a rather expensive research to collect similar information.

The analysis is carried out at two levels: the state level and the level of the engineering industry of the Greater Porto Alegre region. The study of the evolution of bargaining procedures takes into consideration the whole state of Rio Grande do Sul. However, a more detailed analysis of the evolution of the collective bargaining relationship and of the bargaining scope takes into consideration a segment of the

engineering industry of the Greater Porto Alegre region. More precisely, I consider the geographic area covered both by the engineering industry unions of Porto Alegre (Sindicato dos Trabalhadores Metalúrgicos, Mecânicos, e de Material Elétrico de Porto Alegre) and by the engineering industry union of Canoas (Sindicato dos Trabalhadores Metalúrgicos, Mecânicos, e de Material Elétrico de Canoas). This microregion had considerable weight in terms of industrial product and employment in the Greater Porto Alegre Region and in the state of Rio Grande do Sul. In 1992, the product of the manufacturing industry of the selected area constituted around 26 per cent of the product of the manufacturing industry of Rio Grande do Sul, and around 51 per cent of the product of the manufacturing industry of the Greater Porto Alegre region. The product of the selected segment of the engineering industry accounted for around 7.5 per cent of the product of the manufacturing industry of Rio Grande do Sul and for 14.5 per cent of the product of the manufacturing industry of the Greater Porto Alegre region. In 1990, the labour force of the manufacturing industry in the same selected area totalled around 24 per cent of the labour force in the manufacturing industry of Rio Grande do Sul, and around 50 per cent of the labour force in the manufacturing industry of the Greater Porto Alegre region. Finally, the labour force in the selected engineering industry accounted for around nine per cent of the labour force of the manufacturing industry in Rio Grande do Sul and for 19 per cent of the manufacturing industry in the Greater Porto Alegre region (Pichler 1999a: 52-53).

By circumscribing the analysis of the collective bargaining relationship and the scope to this segment of the manufacturing industry, I can give a more precise idea of the tendencies of evolution of the bargaining practice in Rio Grande do Sul. This segment of the manufacturing industry is a strategic economic sector in the state, and

the unions that represent the employees of this sector were the most powerful and active organisations in southern Brazil.

6.1.5 The general analytical scheme

The general analytical scheme is the following (see Figure 2):

- the dependent variable is collective bargaining;
- the independent variables are:
 - The political context;
 - The economic context.

The assessment of the nature of the evolution of collective bargaining is indicated by the two related aspects (Table 13):

- Collective bargaining relationship;
- Bargaining scope.

Figure 2: Independent variables and dependent variable

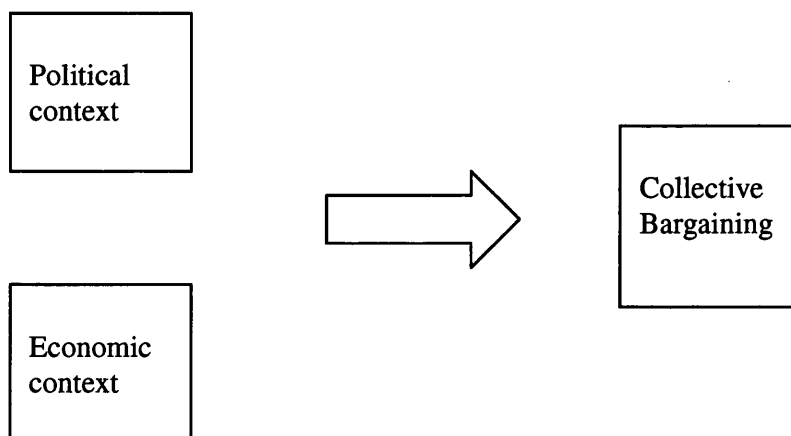


Table 13: Dependent Variables

Variables	Indicators
Collective bargaining relationship	<ul style="list-style-type: none"> • Bargaining procedures • Behaviour of the parties to the negotiations.
Bargaining scope	<ul style="list-style-type: none"> • The range of issues • The amount of agreement issues

The expression **collective bargaining relationship** is defined as a form of collective interaction between union and management representatives, characterised by no state involvement or by a type of state involvement in the regulation of industrial relations that does not undermine significantly the authority of the actors. It is also characterised by patterns of behaviour of the actors that reveal their attitudes. Attitude is defined by Ander-Egg (1995: 251-252) as a psychological propensity, obtained through the experience of the actors, which incites the individuals to react to given persons, objects or situations in a determined way. Attitudes are inferred from the analysis of declarations or from the observation of the conduct of the actors.

The patterns of behaviour here considered are: a) the propensity of the actor for negotiations; b) the responsiveness of the interest associations to the needs and expectation of members in relation to the negotiations; and c) the concern of the leadership of these associations with being effective in negotiations. I assume that the progress of collective bargaining is indicated by the development of collective bargaining relationships.

One of the most important indicators of the collective bargaining relationship is the level of involvement of the state in the negotiations. This is expressed by the procedures (or methods) the parties adopted in the negotiation process. These procedures were defined according to the forms of conduct required, by law, to be followed by the parties in collective labour disputes. The legislation established five

types of procedures: direct negotiations, round-table negotiations, conciliation, arbitration and appeals to the Superior Tribunal of Labour. In this research I will use three types: direct negotiations, conciliation and arbitration.

Direct negotiations include the understandings in which there is no state involvement, plus the understandings held with the assistance of the regional representative of the Ministry of Labour (the 'round-table' meetings). I decided to include the round-table meetings in the direct negotiation group for two reasons. First, the parties to the negotiations could skip this stage if they so desired. According to a representative of the Ministry of Labour (Respondent 3), they frequently did. In this case the parties filed the case directly in the Labour Courts. Second, the terms established in the agreements reached at this stage (either in direct negotiations or in round-table meetings) were not required, by law, to be approved by the authorities.

Conciliation includes the understandings held by the parties during the conciliation stage in the Labour Courts. During this phase the parties to the negotiations are assisted by a career judge. 'Conciliation' includes the contacts the parties held either in the conciliation hearings the parties were summoned to attend, or in other meetings not held in the tribunal. Even though an agreement was reached at the conciliation phase in the regional tribunals, law required the outcomes of the understandings to be approved by the judges ('homologação'). Finally **arbitration** includes the judicial decisions established in arbitration awards made by groups of judges of the regional tribunals, as well as the appeals solved by groups of judges in the Superior Tribunal of Labour (Tribunal Superior do Trabalho - TST).

The agreements that were settled by means of direct negotiations are filed in the regional department of the Ministry of Labour (Delegacia Regional do Trabalho –

DRT). All settlements established at the judicial stage (collective agreements and arbitration awards) are filed in the Regional Tribunals of Labour.

The above set of procedures indicates the extent of autonomy the parties to the negotiations enjoy in relation to the state for the resolution of their collective labour disputes. Autonomy is defined as the capacity to act upon the decision one has made. This implies that the actors can direct their own affairs without interference from the state. I posit that the larger the extent of involvement of the authorities in negotiations, the lower the level of the autonomy of the parties relative to the state, and vice versa. The highest degree of autonomy corresponds to direct negotiations, and arbitration corresponds to the highest level of state involvement. Conciliation lies at an intermediary level.

The level of autonomy of the parties in dispute resolutions, a crucial aspect for collective bargaining relationships to develop, is also expressed in types of behaviours of the parties to the negotiations. According to the definition, it includes, first, leadership responsiveness to the interest and needs of members. This aspect is indicated by the way the leadership assesses the interest of members in the process of establishing the list of demands, as well as by the list of demands. Second, it is also expressed in the concern of the leadership in union effectiveness in negotiations. This is indicated by: (a) the links that exist between unions and work places; (b) the form of preparation for negotiations; (c) the means used by the parties with the view of exerting pressures over each other. The form of preparation includes the negotiation skills of the negotiators, the use of consultants or advisers. Third, it also includes the propensity of the actors for negotiations. I assume that this is indicated by the way they regard negotiations, which I discern in interviews. That is to say, there is evidence of a propensity for negotiations if the parties declare that they were willing to negotiate.

If there is evidence of a significant increase in the level of autonomy of the parties in relation to the state in dispute resolutions, as well as of significant progress in collective bargaining relationships, the corporatism-is-dead hypothesis is confirmed. Conversely, if there is evidence of permanence of high levels of dependency of the actors on the state, as well as of a lack of development in collective bargaining relationships, the corporatism-is-not-dead hypothesis is confirmed. Finally, if there is evidence of a continuous increase both of the levels of autonomy of the unions and management in relations to the state and of collective bargaining relationships throughout the period under investigation, then the corporatism-is-in-transition hypothesis is confirmed.

The **bargaining scope** is defined as the subject of the formal agreements or arbitration awards. The scope reveals what type and amount of employment conditions were set in (or were the subject of) collective agreements. I assume that the progress (or development) of the scope is indicated by an enlargement of the range of issues regulated by the collective bargaining agreements, and retrogression is indicated by a contraction of the range of issues. A significant increase of the scope indicates a break away from previous rule-making patterns and, hence, confirms the corporatism-is-dead hypothesis, while a lack of significant progress confirms the corporatism-is-not-dead hypothesis. The corporatism-is-in-transition hypothesis will be confirmed if there is evidence of a continuous increase of the scope of the agreements during the period and if there is evidence that the increase of the scope has occurred at the expenses of the role of the statutory regulation of the terms of employment.

Changes in the bargaining scope are indicated by variations in the range of issues and in the amount of issues established in the collective agreements. The “range of issues” is defined as the type of aspects of the employment relationship that were

regulated by the collective bargaining agreements (or by arbitration awards) – henceforth both these types of settlements are referred to as collective agreements. The arbitration awards were included in the analysis because they are sources of employment rights other than the legislation. Moreover, although the parties lose their power over the specific rules that are decided by the tribunal, the issues that the parties take to the judges are the same as those that they were dealing with before the dispute was turned into an arbitration case. The sample of agreements analysed by this research includes only one arbitration award, which was established in 1985 in the municipality of Canoas.

In order to identify the areas of the employment relationship covered by bargaining regulations, I adopt a classification scheme of agreement provisions, which are the units of the analysis of the scope provided by Dunning (1985). The complete list is included in Appendix 1. Dunning breaks the themes of agreement provisions into four types of subjects (here referred to as subject areas), namely, “terms of employment”, “conditions of work”, “labour-management relations”, and “duration and enforcement”. In order to shed light on the rights union have won during the period under consideration, I grouped the related issues in the “trade union organisation” broader subject area. This subject area captures whether changes in the power and in the organization of the interest associations of employees and employers took place during the period. Since they are common to every agreement, the issues related to “duration and enforcement” were left out of the analysis.

The subject areas were broken down into distinctive subjects that were called topics, subtopics and individual clauses. One, or a set of individual clauses, form a subtopic; while one, or a set of subtopics, form a given topic. Finally, a set of topics forms a subject area.

I assume that a subject becomes part of the scope in a given year if any agreement of the respective year includes one or more clauses related to the respective subject matter. A broadening of the scope is given by the diversification of the subjects of bargaining through time. Conversely, a narrowing of the scope is given by the reduction (or disappearance) of types of subjects of the collective arrangements. I posit that a significant broadening of the bargaining scope indicates changes in the patterns of rule making.

The expression “amount of issues” regulated by the collective agreements, the second indicator of the evolution of the scope of bargaining, refers to the number of types of “items” included in the agreements in a given year. The term “item” is broadly defined. It could include agreement provisions (or clauses), or groups of clauses (a subject area, a topic or a subtopic). These groupings gather the different provisions of a same type of aspect of the employment relationship they regulate. The “amount of issues” is an indirect measure of the range of issues covered by the scope of bargaining. I assume that an increase in the amount of groups of clauses indicates the extent to which the subject of the agreements is diversified. I establish, as well, that an increase in the bargaining scope is indicated by a change in both the type and amount of issues regulated by the collective agreement.

I distinguish four categories of agreement “items”. The first is the ‘total annual amount of clauses’, which corresponds to the amount of different agreement items found in a given year in the sample of 81 agreements, randomly chosen, in the selected segment of the engineering industry of the Greater Porto Alegre region (see section 6.2.1, below). I assume that a given clause exists in a given year if the respective clause appears in any agreement (or arbitration award) of the sample. Even if the given clause appears in more than one agreement, it is computed only once. In other words, the

number of clauses does not indicate in how many agreements it appears in a given year. It just indicates that the item appeared in a given year in at least one agreement. The same logic is applied to the annual amount of subtopics, topics or broader subject areas. A second category of clause I distinguish here is the 'new clause' (or subtopic, or topic or subject area). A clause is 'new' if it did not appear in any agreement of the previous years. This means that a clause can be 'new' only once. That is to say, the clause is 'new' in the year it appeared for the first time only. Hence, if a clause reappears after having been dropped, it will not be computed as 'new' if it has appeared in any of the previous years. It is also only labelled as a 'new' clause if it appeared after 1978. The clauses of 1978 are not considered 'new clauses'. The third category is the 'sleeping' clause (or subtopic, or topic, or subject area). A clause is 'sleeping' if it appears irregularly in the bargaining scope during the period. Finally, the fourth category of agreement item I distinguish here is the 'dead' clause (or subtopic, or topic, or subject area). This type of item is defined as having appeared in any of the years of the available time series, then stops appearing in the agreements after a given year until the end of the period.

Consistent with my theory, the independent variables are: the political context and the economic context (Table 14). The **power** (or **political**) **context**, or power distribution in society, is expressed in the prevailing political regime and in the legal environment. Quoting Meltz (1991: 12), 'the location and distribution of power in society influences the extent to which the industrial relations system is centralised or decentralised as well as the kinds of intervention, by whom and for what purposes'. Power distribution determines the extent of freedom to organise and to act that trade unions and employers' associations enjoy in a society.

Table 14: The set of independent variables

Variables	Indicators
POLITICAL CONTEXT	
Political regime	Method of choice of rulers
ECONOMIC CONTEXT	
State of the economy	Variation of prices
	Real minimum wage
	Economic growth
	Unemployment rates

I assume that the characteristics of the power context are expressed by the political regime. The type of regime prevailing in a society is, in turn, indicated by the method a population uses to choose the rulers in power. Democracy implies the existence of free elections, while authoritarian political regimes imply the opposite. The legal environment establishes the status of the actors in industrial relations. This in turn is expressed in the set of union and employment rights.

The Brazilian political context of the period under consideration in this thesis was split into two different sub-periods. The first ranges from 1978 up to 1984, the period during which Brazil was under military rule, the state corporatist constraints on trade unions affairs were still in force, and the president of the republic was chosen by the national congress. This phase is referred to as **military regime**. The second political sub-period ranges from 1985 to 1991. This period is here referred to as **democracy**. This phase is characterised by the end both of the military regime and of the authoritarian corporatist arrangement, as well as by the reestablishment of free elections for the president of the republic, as we have seen in Chapter Four. Political liberalisation is expected to lead to an increase of opportunities for negotiations and hence to encourage its practice. This, in turn, is expected to favour both the progress of collective bargaining relationships and the enlargement of the scope of agreements.

The independent variable labelled **economic context** is defined as the market factors that set the limits within which the parties must operate (Meltz 1991: 12). It

encompasses the aspects that affect union bargaining strength. We have seen in Chapter Two that the key aspects of the economic context that affect union actions are changes in prices, real wages, unemployment rates and economic growth rates (Bean 1991: 41-45; Kochan 1980: 36-83).

I assume that an increase of the economic growth and of the real minimum wage, and a low level of inflation rates and of unemployment, is likely to favour an increase of the autonomy of the parties in relation to the state. This would be reflected, in turn, in the development of collective bargaining relationships, as well as in the progress of the bargaining scope.

6.1.6 Research hypothesis

In this study I test the views of the literature regarding the nature of the changes of the industrial relations system during the eighties. The basic propositions I am testing are the following (see Table 15):

- In the early nineties the industrial relations system was still corporatist;
- In the early nineties the system was no longer corporatist;
- In the early nineties the system was in transition from state corporatism towards pluralism.

The **corporatism-is-not-dead** hypothesis will be confirmed if, in the early nineties, there is evidence of: (a) permanence of high levels of dependency of the parties on the state in dispute resolution; (b) lack of development of collective bargaining relationships, and (c) lack of progress of the scope.

The **corporatism-is-dead** hypothesis will be confirmed if, in the early nineties, there is evidence of: (a) a significant reduction of the levels of dependency of the parties on the state in dispute resolutions; (b) a development of collective bargaining relationships; and (c) a significant progress of the bargaining scope. A significant

increase of the autonomy of the parties from the state is indicated by the decrease of the levels of dependency of the parties to the labour courts in dispute resolution. This, in turn, is reflected in the type of bargaining procedures adopted by the parties, as well as by the role played by the labour courts. A significant advance in the scope of bargaining is expressed in both the amount of issues of the collective agreements and the range of issues regulated by them. If there is evidence that the authoritarian version of corporatism is dead, then either a bargained corporatist model, or a pluralist model, or a market individualism system, or even another type of industrial relations system may have emerged.

Table 15: Summary of the research propositions

Assumptions	Characteristics of collective bargaining
Corporatism is not dead	<ul style="list-style-type: none"> • Permanence of high levels of dependency of the parties on the Labour Courts in dispute resolutions • Lack of collective bargaining relationships • Lack of enlargement of the bargaining scope
Corporatism is dead	<ul style="list-style-type: none"> • Significant increase in the levels of autonomy of parties in dispute resolutions • Development of collective bargaining relationships • Significant enlargement of the bargaining scope
Corporatism is in transition towards pluralism	<ul style="list-style-type: none"> • Continuous increase of levels of autonomy of parties in dispute resolution • Development of collective bargaining relationships • Continuous enlargement of the bargaining scope

Finally the **corporatism-is-in-transition** hypothesis will be confirmed if there is evidence of: (a) a continuous increase of the levels of autonomy of the parties in relation to the state in dispute resolutions; (b) a development of collective bargaining relationships; (c) a continuous increase of the bargaining scope. I assume that a continuous enlargement of the content of the agreements could occur at the expenses of the reduction of the legal regulation. Since, according to (Windmiller 1987: 7), there is no country in which the state totally abstains in legislating in the area of work

conditions, the continuous enlargement of the scope could occur in combination with the legal regulations.

The next section is concerned with the way I collected the evidence from which I draw the conclusions of this study. It is also concerned with describing the research methodology I employed.

6.2 Evidence and Research Methodology

This section is concerned with the sources of information, the collection of the empirical data and the methods employed in the analysis of the evidence. In section 6.2.1 I describe the type of data and the sources of information used in this research. In section 6.2.2 I describe the fieldwork, and in section 6.2.3 I delineate the methods I have employed to select, locate and interview respondents. In section 6.2.4 I depict how I have organised and analysed the empirical data in the two chapters in which I analyse, in separate, the evolution of union-management collective relationships and the evolution of the bargaining scope.

6.2.1 Type of data and sources of information

I have used a varied set of empirical data that includes records from the Labour Courts and from the Ministry of Labour, collective agreements and arbitration awards. I have also collected evidence through interviews held with the leadership of representatives of employers and employees of the segment of economic activities covered by the engineering trade unions of the municipality of Porto Alegre and of Canoas, with representatives of the Labour Courts and of the Ministry of Labour, and with a representative of a union consultancy agency. Moreover, some of the data were drawn from secondary sources, such as statistical data provided by the Brazilian Institute of Geography and Statistics (Instituto Brasileiro de Geografia e Estatística -

IBGE), and by the Statistics and Economy Foundation (Fundação de Economia e Estatística - FEE), a research institution of the state of Rio Grande do Sul.

The conclusions regarding the evolution of the collective bargaining relationship that are presented in Chapter Seven are drawn from the analysis of the records collected from the files of the Regional Tribunal of Labour and from the Regional Delegacy of the Ministry of Labour. With these data I built a time series on the evolution of the number of direct negotiations, of conciliation and of arbitration awards established in the state of Rio Grande do Sul between 1978 and 1991. In the same chapter I also use data collected in interviews carried out with representatives of the Labour Courts and of the Ministry of Labour, as well as with union and management associations leadership in the engineering industry of the municipalities of Porto Alegre and Canoas.

The conclusions of the analysis of the evolution of the bargaining scope, presented in Chapter Eight, are based on a sample of agreements established in the selected segment of the engineering industry of the Greater Porto Alegre region. The sample, randomly chosen, comprises 81 settlements: 36 were set at the firm-level and 45 at the multi-employer level. This set represents 53 percent of all cases - of the selected industrial sector - filed in the Regional Department of the Ministry of Labour and in the Regional Tribunal of Labour in Rio Grande do Sul between 1978 and 1991. The sample includes 53 percent of all multi-employer level settlements and 61 percent of all firm-level ones.

6.2.2 Field work

The field work was carried out between August 1992 and January 1993. The collection of the data was accomplished in three phases. The first phase included the collection of data on the number of negotiations, direct negotiations, conciliations and arbitrations. This phase involved the analysis of the files of the regional tribunal of the

Labour Courts (Tribunal Regional do Trabalho - TRT) and of the regional agency of the Ministry of Labour (Delegacia Regional do Trabalho - DRT). During this research I collected 7,633 records of settlements in the files of the Ministry of Labour and of the Labour Courts. Every record includes information on the following aspects:

- The date the agreement (or arbitration award) was established;
- The bargaining units;
- Bargaining procedure, which is derived from the institution in which the settlement was filed (either in the DRT or in TRT); the processes filed in the labour tribunal were classified either as outcomes of conciliations or of arbitrations;
- The level of bargaining.

The second phase included the gathering of: (1) labour and wage legislation; (2) census data and economic statistics; (3) a sample of formal collective bargaining agreements and arbitration awards established in the area covered by the engineering trade unions of Porto Alegre and Canoas. The third phase was concerned with: (1) the outline of the schedule of interviews; (2) the selection of respondents; (3) the pre-testing of interviews; (4) the location of respondents; and (5) the interviews.

6.2.3 Interviews

The data collected in interviews provide additional information concerning the behaviour of the parties to the negotiations. The interviews lasted, in average, two hours. Some of them demanded two or more meetings with the respondents.

The interviews gathered information on the following:

1. State involvement in collective bargaining;
2. Bargaining practices, bargaining skills, negotiation strategies;
3. Scope of negotiations;

4. General characteristics of trade unions and employers' associations; new technologies and management style.

Interviews were held with 11 respondents:

1. Two trade union directors and two employers' association directors of the engineering industry of the municipalities of Porto Alegre and Canoas;
2. One regional director of the engineering industry workers' federation in Rio Grande do Sul;
3. One representative of the regional employers' association (FIERGS);
4. Two representatives of the regional tribunal of labour;
5. Two representatives of the regional department of the Ministry of Labour;
6. One representative of a trade union advisory agency (DIEESE).

The criteria for selection of the respondents were: (a) they had to be legitimate representatives of the parties to the negotiations; (b) the respondent had to be familiar with current and past collective bargaining processes and with policies of the institution or department they represented. An interview with a representative of an advisory agency (either of employers or of employees) was decided on the grounds that this professional was well acquainted with the collective bargaining process and was in contact with employers and employees of the selected economic segment in the state. The only representative found in the area was the director of the regional section of the Department of Inter Union Statistics and Social and Economic Studies ('Departamento Intersindical de Estatísticas e Estudos Sócio-Econômicos' - DIEESE) -, a trade union funded consultancy agency. There was no equivalent employers' association assistance agency in the state in the early nineties. Enterprise consultations on industrial relations matters were done by individuals hired by the firms for this purpose. None of these individuals were in Rio Grande do Sul at the time of the data collection phase.

The conduct of the interviews:

- (1) Pilot interviews held with trade union leaders, researchers and employer associations' representatives helped to determine whether or not the questions and their sequence and wording could be clearly understood by the respondents.
- (2) The first contact with the respondents was by telephone. They were told what the research was about and why they were selected. Then the respondent was asked whether or not he or she agreed to give an interview about the subject. All selected respondents were willing to give the interview, and then a meeting date was settled.
- (3) The interviewee knew the type of information sought for in the interviews in advance by phone. Some specific aspects, however, were highlighted only during contact: this was the case of managers' reports on any enterprise modernisation that was occurring in the firm. In these cases, improvised questions were made on the subject.
- (4) The interview included a set of questions all respondents were asked. There were also some specific issues that were asked to specific types of actors. These questions varied according to the respondent's role in industrial relations (employer, employee or representative of the state).
- (5) The interview combined schedule standardised with non-schedule techniques. In the standardized schedule interview the wording and sequence of questions are determined in advance and the questions on the schedule are asked of all respondents in exactly the same way. In the alternative approach, the non-scheduled standardized interview, the wording and sequence of the questions may vary for maximal effectiveness with individual respondents (Richardson, S. A., Dohrenwend, B.S. and Klein, D. 1965: 148-149).

Although the interview was set up as a schedule standardised interview with fixed wording and sequence, in practice the schedule worked as a list of information required, which was adapted according to the circumstances. Most of the times the alteration, which could be in the sequence or in the wording, was necessary to make the issues more understandable to the respondent. This strategy was sometimes needed in order to suit the questions to the different cultural or educational backgrounds of the respondents. Sometimes the alteration of the wording became a useful technique to obtain additional information about the subject beyond the limits of the schedule. Finally, as the alteration of the sequence was adopted, especially in the beginning of the interview, it was useful to develop a good rapport with the respondents facilitating the collection of additional information.

(6) Almost all the questions of the interview schedule were open-ended. This procedure was useful to capture the insights of the respondents, since the questions were formulated in a way that implied that the interviewer respected the judgement of the respondent and relied upon him to select pieces of information that were useful, informative, and relevant (Richardson, S. A., Dohrenwend, B. S. and Klein, D. 1965: 148-149).

In the section below, I describe the way data collected in the field work were organised and stored. I also describe the way I analyse the evidence in the two following empirical chapters.

6.2.4 Data analysis

The official records collected in the files of the Regional Delegacy of the Ministry of Labour and of the regional tribunal of the Labour Courts were recorded in the Microsoft Access data base according to the following format:

- The date on which the settlement was established;

- The economic sector;
- The level of bargaining;
- The bargaining procedure.

The second set of data, the content of the sample of agreements and arbitration awards established in the selected economic sector during the period under consideration, was organised per union and per year. The distinctive agreements were then analysed, and the distinctive agreement items were grouped according to classification scheme mentioned above. The different agreement items were then recorded in the Microsoft Access data base according to the following format:

1. Identification of the agreement (or arbitration award): date, bargaining units, bargaining procedure, bargaining level;
2. Broader subject area to which the agreement item pertains: “terms of employment”, “conditions of work”, “labour-management relations”, “trade union organisation”;
3. Topic of the clause to which the agreement item pertains: the correspondent subject, within the respective broader subject area, the specific agreement regulation is related to;
4. Sub-topic of the clause the agreement item pertains to: the corresponding subject, within the respective topic, the agreement the provision is related to.

The third set of data includes evidence collected in interviews. The latter were aimed at collecting supplementary information on the nature of the understandings and the evolution of collective bargaining through time. The subject of the latter was recorded both in notes taken during the interviews and on tapes. After the interview, the notes and the tapes were compared and the precise location of the different parts - on the tapes - was identified. The specific aspects considered in the analysis and the way they

were studied are described in Chapter Seven – the chapter in which most of the interview data were used. In the two next subsections I describe the way I analyse the data in the two empirical chapters.

6.2.4.1 Chapter Seven

In Chapter Seven I am concerned with the evolution of the nature of union-management collective relationships in Rio Grande do Sul between 1978 and 1991. I assess whether or not, and to what extent, the parties became more autonomous in relation to the state. I am also aimed at verifying the impact of the variations in the political and economic environments on the behaviour of the parties in dispute resolutions.

The changes in the behaviour of the parties are assessed, firstly, by the analysis of the evolution of the type of dispute resolution procedure adopted by the parties: Direct Negotiations, Conciliation or Arbitration. I assess the variation of the level of autonomy of the parties through time by means of a statistical analysis of a time series built with the records collected in the files of the regional office of the Ministry of Labour and in the files of the regional tribunal of the Labour Courts. I posit that the level of autonomy of the actors in relation to the state is indicated by the relative participation of the amount of cases of each type of procedure in the total amount of cases. For instance, if the participation of conciliation cases in the total is higher than the participation of the other types, I assume that, in Rio Grande do Sul, the parties developed a medium level of autonomy in relation to the state.

In order to unveil more accurately the nature of the dispute resolution processes and, hence, of the level of autonomy of the actors, I use a second indicator, namely, the patterns of behaviour of unions and management in dispute resolutions. The measurement of this is based on supplementary evidence collected through interviews.

Three types of issues were examined: (1) the responsiveness of the workers and management organisations to the needs and interests of members; (2) the effectiveness of the interest associations in negotiations; (3) propensity for negotiations. I assume that the responsiveness of the interest associations is indicated mainly by the way the leadership assesses the demands of their members and secondarily by the characteristics of the list of demands. I assume that the effectiveness is indicated by: (a) links between leadership and workplaces; (b) measures taken by the leadership to prepare for the negotiations (improvement of skills of negotiators, use of consultants or advisors; collection of information); (c) characteristics of the negotiation commission (size of the group, type of members, how they were chosen); (d) type of pressures exerted over the other party during negotiations. Finally, I assume that the propensity for negotiations is expressed in: (a) the willingness to negotiate; (b) the reasons pointed out by the parties for undertaking negotiations; (c) the characteristics of the encounters of the parties (phases; when and where the encounters occurred; duration of the understandings; form of relationship of the parties in negotiations).

The third indicator of the level of autonomy of the parties is the character of state involvement in dispute resolutions. This in turn is indicated by: (a) the form of interference of the labour tribunals in dispute resolutions (how and to what extent has the authority of the parties been undermined?); (b) the roles played by the tribunals in dispute resolutions. These aspects were also evaluated through information collected in interviews.

The final issue I am concerned with is the impact of the broader environment on the level of autonomy of unions and management, in relation to the Labour Courts, in dispute resolutions during the period under investigation. I assume that the variations of the parties' behaviour over time are expressed in amount of procedures, per type, and

per year. One of the dimensions of the broader environment here considered – the independent variable – is the political regime (military regime and democracy). The appropriate test to measure the impact of the political regime over the behaviour is the Chi-Square test for independence (Healey 1993: 254).

The economic environment is indicated by four aspects: the inflation rate, economic growth rate, unemployment rate, and real minimum wage index. The inflation rate is the annual rate of increase of the average price level of a large number of goods and services in an economy. Examples of common measures of inflation include the Cost of Living Index, the Consumer Price Index and the Producer Price Index. In this research I use the Consumer Price Index.

The economic growth rate is the increase of the annual value of goods and services produced by a given economy. It is conventionally measured as the percentage rate of increase in the real Gross Domestic Product, the GDP. The variation of the size of unemployment in the country is given by the relative participation of the annual amount of unemployed in the total annual amount of the economically active population. Finally, the minimum wage is the minimum rate a worker can legally be paid in the Brazilian economy. The real minimum wage index is the inflation-adjusted (or deflated) value of the minimum wage, which is computed for a given year. According to Mericle (1974: 253-254), in Brazil the variation of the whole wage structure would follow the variation tendencies of the value of the legal minimum wage.

In assessing the size of the impact of the economic environment on the attitudes of the parties in dispute resolution, the level of measurement involved is the interval ratio. The appropriate type of mathematical operation for this is the multiple regression model, which describes the overall linear relationship between any number of interval-ratio independent variables. According to Healey (1993: 450-456), the ordinal linear

simple regression test is best suited for the purpose of isolating the separate effects of a limited number of independent economic variables on the dependent variables (the relative participation of the annual amount of procedures per type on the total amount of cases). The polynomial models of regression models or the log-linear models would be appropriate if the results of the linear regression were not significant.

6.2.4.2 Chapter Eight

In Chapter Eight I have tested whether or not, and to what extent, collective bargaining increased its role in regulating industrial relations between 1978 and 1991, through the analysis of the evolution of the scope of the collective agreements and arbitration awards. I have also assessed the impact of the political and economic environments on the evolution of the outcomes of the negotiations.

The chapter starts with the analysis of the evolution of the subject matter of the agreements. By classifying the items per broader subject area, topics and subtopics, I was able to identify the subjects of the employment relationship that were included in the bargaining scope in the selected economic sector. The second step of the analysis was the assessment of (a) how many agreement issues were established per year, and (b) how many new types of subjects were established per year. I assume that a type of subject was introduced in the negotiations, in the sense that it became the subject of regulations, the year a corresponding agreement item was set in any of the agreements established in that year. For instance, food and transport subsidies were the subject of regulations the year the item was negotiated in any of the agreements of the sample.

The impact of the political and economic contexts over the variations in the scope of bargaining was assessed according to the following methodology:

(a) By applying the t-test for differences in means (Healey 1993) of the amount of agreement items and of the amount of new agreement items, in average, per political

sub-period, I could assess whether or not the variations in the political context affected the scope of bargaining.

(b) By applying the multiple regression analysis (Healey 1993), I could assess whether or not, and to what extent, the variations of the economic environment affected the evolution of the annual amount of agreement issues, as well as of the annual amount of new agreement issues.

Conclusions

In this chapter I have stated that the basic issue addressed by this research is to test the hypothesis I have drawn from the analysis of the literature and, in particular, the question is to what extent the Brazilian system changed between 1978 and 1991. My point of departure is that by analysing features of collective bargaining I can assess the nature of the evolution of an industrial relations system over time. I assume that the extent of development of collective bargaining is indicated by patterns both of collective union-management relations and of the scope of the collective agreements. I assume that, by analysing these aspects, I can confirm one of the basic propositions this research is aimed at testing, namely whether or not, and to what extent, patterns of union-management relationships, typical to the state corporatist system, changed. If this occurred, then I posit that the state corporatist system was eliminated during the eighties. I can also test whether there is evidence that the Brazilian system was in transition from state corporatism towards a liberal (or pluralist) industrial relations model.

The research is also aimed at assessing the impact of changes in the broader environment on industrial relations. The new developments of the eighties – namely, the political liberalisation process and the decline of the import-substitution economic development model, and the appearance of the new unionism - were studied in Chapter

Four. I am particularly concerned with the impact of the power context (or political and legal environments) and of the economic contexts on the progress of collective bargaining.

The conclusions regarding the variation of the level of autonomy of unions and management in relation to the state during the period will be drawn from the analysis of the types of procedures the parties have adopted in dispute resolutions. We have seen that either the conflicts were solved through direct negotiations (the cases that were recorded in the files of the Ministry of Labour) or they were solved with a measure of involvement of the Labour Courts, either through conciliation or arbitration. The conclusions regarding the character of the behaviour of the parties in the establishment of rules (that is to say, the conclusions regarding the responsiveness of unions and management representative associations to the interest of their respective members, the effectiveness of unions in negotiations, and the propensity of the parties for negotiations) will be drawn from the analysis of evidence collected in interviews. The conclusions related to the character of state involvement in union-management relationships will also be drawn from analysis of interview statements. My ideas regarding the role of collective bargaining in the regulation of industrial relations will be drawn from the analysis of the evolution of the content of collective agreements and arbitration awards. Finally, by using statistical analysis techniques, such as the t-test and the multiple regression model, I will be able to assess the extent the variations of the broader environment have affected both the evolution of the level of autonomy of unions and management in dispute resolution and the evolution of the bargaining scope.

The next chapter is concerned with the analysis of the evolution of the form of relationship between unions and management in Rio Grande do Sul between 1978 and

1991. Chapter Eight is concerned with the evolution of the scope of bargaining during the same time period.

CHAPTER SEVEN

THE DEVELOPMENT OF COLLECTIVE BARGAINING RELATIONSHIPS IN RIO GRANDE DO SUL: 1978 TO 1991

In this chapter I am concerned with the evolution of the nature of the union-management relationship in Rio Grande do Sul between 1978 and 1991. I assume that collective bargaining is a power relationship between interest associations of employers and employees. This implies a measure of autonomy of the parties, in relation to the state, in undertaking the regulation of their relationship. This is expressed in the status of the actors in industrial relations and in the form of their interactions.

The changes of the actors' legal status during the period were examined in Chapter Four. In this chapter the focus is placed on the form of relationship of the actors in dispute resolutions. I assume, firstly, that the level of autonomy of the actors in their relationship with the state is expressed in the procedures they adopt in the process of settling their labour disputes. The label procedure refers to the methods by which the actors solve their collective labour disputes. I distinguish three different types of methods: direct negotiations, conciliation and arbitration. These procedures are the forms of conduct legally required, by law, for the parties to establish the rules by which they settle their contests of interests. I assume that the different procedures correspond to distinctive levels of autonomy of the actors, in relation to the state, for the regulation of their disputes. The highest level of autonomy is indicated by direct negotiations and the lowest level of autonomy is indicated by arbitration. Conciliation lies at an intermediary level. My conclusions regarding this aspect are drawn from the statistical

analysis of evidence collected in the files of the regional tribunal of the Labour Courts and of the regional office of the Ministry of Labour.

Secondly, I also assume that more or less independent forms of union-management relationship are expressed in characteristics of the behaviour of the parties in dispute resolutions. This, in turn, is expressed in the responsiveness of workers' and employers' associations to the interests and needs of their members, in the measures the parties adopted with a view of becoming more effective in negotiations and in the propensity for negotiations. My conclusions regarding this aspect are drawn from the analysis of interview statements.

Thirdly, I assume that the extent of autonomy of unions and management in relation to the state is expressed in the character and in the implications of the involvement of the Labour Courts in dispute resolutions. This aspect is assessed through the analysis of the interviews.

By analysing the level of autonomy and the behaviour of the parties, as well as the implication of state involvement, I can assess whether or not, and to what extent, independent bargaining activity developed in the state of Rio Grande do Sul between 1978 and 1991. If there is evidence of a significant increase of the levels of autonomy in relation to the state of unions and management in dispute resolution and of changes in the patterns of union-management relationship referring to the features prior to 1978, then I can confirm the state corporatism-is-dead hypothesis. However, if there is no evidence of permanence of high levels of dependency of the parties to the state in dispute resolutions and of lack of development of collective bargaining relationships, then the state corporatism-is-not-dead hypothesis is confirmed. Finally, the corporatism-in-transition hypothesis will be confirmed if there is evidence of: (a) a continuous

increase of the levels of autonomy of unions and management during the period; (b) of significant development of collective bargaining relationships.

In this chapter I am also concerned with the impact of changes in the broader environment in the union-management relationships. The set of independent variables includes the power context, which, in turn, includes the nature of the political regime and of the legal environment, and the economic context. I assess the extent of the impact of this set of variables by applying the t-test and the multiple regression analysis.

The chapter is broken down into four parts. I start with an overall view of the evolution of the procedures adopted by the actors to solve their labour disputes in the state of Rio Grande do Sul between 1978 and 1991 (section 7.1). In section 7.2 I examine the extent of changes in patterns of behaviour of the parties in the course of the processes of dispute resolutions. This part of the study is based on the analysis of the content of interviews made with regional representatives of the Labour Courts and of the Ministry of Labour, with representatives of trade unions and of employers associations of a segment of the engineering industry of the Greater Porto Alegre region, with officials of the regional federation of employers and employees of the engineering industry, and with a director of a trade union advisory institution. In section 7.3, which is also based on the study of the interviews, I analyse the nature of the involvement of the Labour Courts, as well as their role, in dispute resolutions. Finally, section 7.4 is concerned with the impact of the changes in the power context and in the economic context on the behaviour of the parties in the resolution of labour disputes. I discuss and interpret the results of the statistical analysis combining them with the conclusions drawn from the study of the interviews.

7.1 The evolution of the procedures employed by the parties to solve their disputes of interests

The specific issue I am concerned with in this section is whether or not, and to what extent, the parties to the negotiations managed to become more autonomous in relation to the state. I provide evidence regarding the evolution of the number of labour disputes and of the distribution of settlements, per type of procedure, in the state of Rio Grande do Sul between 1978 and 1991. I start analysing the evolution of the general amount of records and then analyse the evolution of the distribution of the amount of records per type of procedures.

The evolution of the amount of labour disputes and of the type of procedures is inferred from the amount and type of records collected in the state agencies. Each record corresponds to the outcome of one collective dispute process. There are three types of outcomes, reflecting the three different types of procedures, namely: a) collective agreements directly established by the parties without the Labour Courts' involvement, which corresponds to a direct negotiation procedure; b) collective agreements established during the conciliation phase in the tribunals, which corresponds to a conciliation procedure; and c) arbitration awards, which corresponds to arbitration procedure.

In Brazil, once a year, at the reference date, every union renews the current collective agreement. Union leadership observe these dates with utmost diligence because, at the reference date the validity of the rules established by the parties in the agreement (or arbitration award) of the previous year runs out. Therefore, we can expect that at least one agreement is settled by every union, every year, within the geographic area covered by the respective interest association.

The annual agreement (or arbitration award) is, in general, a multi-employer level arrangement. The parties may also establish firm-level agreements, however, the amount of this type of arrangements was small, though in increase (around 50 per cent), in Rio Grande do Sul during the period. For instance, in 1991 the amount of firm-level agreements corresponded only to 0.2 per cent of the whole amount of enterprises that existed in Rio Grande do Sul (Ministry of Labour 2001: RAIS – CD).

The records of collective dispute processes are mutually exclusive. If one agreement is registered in the Ministry of Labour, it will not be filed in the Labour Courts and vice versa. This means that there is no double counting.

Starting with the analysis of the evolution of the general amount of records of outcomes of collective disputes (displayed in Table 16 and in Figure 3) we can see that, between 1978 and 1991, 7,633 agreements and arbitration awards were established in Rio Grande do Sul. We can also see that the annual amount of arrangements increased considerably during the period. In 1978 there were 296 cases recorded, whereas in 1991 there were 935. This corresponds to an increase of around 216 per cent of the number of records.

The difference between the quantities of cases in 1991 and in 1978, which amounted to 639, corresponds to the new entries of the period. If we assume that each union establishes at least one multi-employer level arrangement per year, then the new entries correspond, in the first place, to the amount of settlements established by the new trade unions set up during the period. According to official data, 327 new unions were created in Rio Grande do Sul between 1978 and 1991 (IBGE 1996b: 63, 105). Hence, it is likely that around 51 per cent of the whole amount of the new entries correspond to the annual multi-employer level agreements established by the new organisations. Around 13 percent of the new entries correspond to the amount of firm-

level arrangements. The rest of the new entries, around 36 percent of the total, correspond to the increase of the frequency of labour disputes per year. In other words, we can assume that the rest of the new entries coincide with the outcomes of more than one multi-employer level negotiation established by a given number of unions in a given year. The increase of the frequency of negotiations undertaken in a same year constitutes a break away from the patterns that characterised labour disputes in the past, which was characterised by just one agreement per union per year.

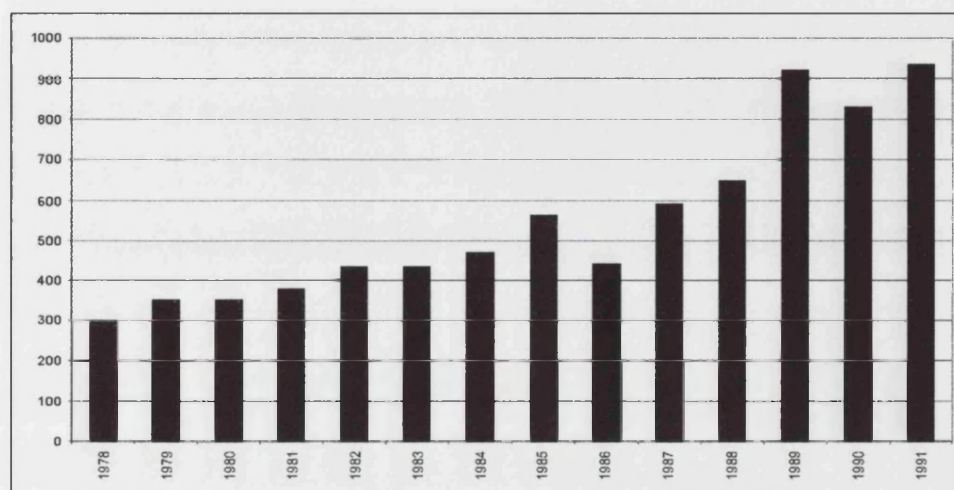
Table 16: Evolution of the annual amount of cases of dispute resolutions, per type and per year, in Rio Grande do Sul, 1978-1991

Years	Direct Negotiations		Conciliation		Arbitration		(blank)		Total	
	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage	Number	Percentage
1978	86	29,1%	197	66,6%	13	4,4%	0	0,0%	296	100%
1979	112	32,0%	208	59,4%	30	8,6%	0	0,0%	350	100%
1980	97	27,6%	213	60,5%	42	11,9%	0	0,0%	352	100%
1981	97	25,6%	229	60,4%	53	14,0%	0	0,0%	379	100%
1982	112	25,8%	291	67,1%	31	7,1%	0	0,0%	434	100%
1983	113	26,1%	281	64,9%	39	9,0%	0	0,0%	433	100%
1984	125	26,6%	295	62,8%	50	10,6%	0	0,0%	470	100%
1985	174	31,0%	333	59,4%	54	9,6%	0	0,0%	561	100%
1986	152	34,5%	232	52,7%	56	12,7%	0	0,0%	440	100%
1987	198	33,6%	304	51,6%	86	14,6%	1	0,2%	589	100%
1988	166	25,7%	360	55,7%	119	18,4%	1	0,2%	646	100%
1989	185	20,1%	599	65,1%	136	14,8%	0	0,0%	920	100%
1990	212	25,6%	450	54,3%	166	20,0%	0	0,0%	828	100%
1991	220	23,5%	532	56,9%	183	19,6%	0	0,0%	935	100%
Total	2049	26,8%	4524	59,3%	1058	13,9%	2	0,0%	7633	100%

Sources: Regional Tribunal of Labour of Rio Grande do Sul (TRT-RS) and the regional office of the Ministry of Labour (DRT-RS)

Table 18 shows that most of the outcomes of labour disputes were established between 1985 and 1991, the period when democracy was restored in the country. In that phase the number of records amounted to around 64 per cent of the total, while in the first half around 36 per cent of the total was established.

Figure 3: Evolution of the annual amount of cases of collective labour disputes in Rio Grande do Sul, 1978-1991



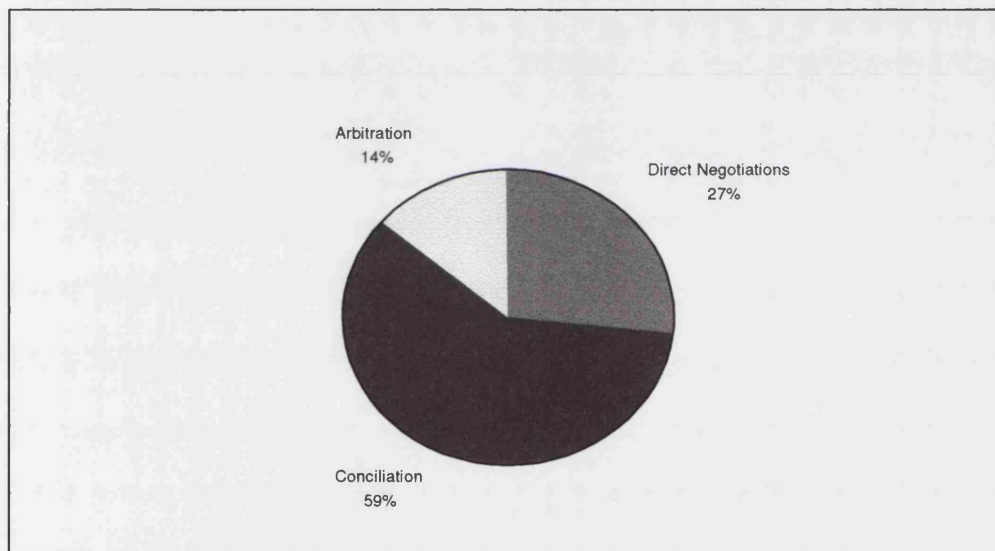
Source: DRT-RS and TRT-RS

When the distribution of the collective disputes established during the period is analysed, per type of procedure, we can see, firstly, that the amount of court cases (which is the sum of conciliation plus arbitration) predominated largely over direct negotiations – around 73 per cent and 27 per cent, respectively. This means that, in Rio Grande do Sul most of the labour disputes were resolved with a measure of involvement of the Labour Courts. The majority of the cases – around 59 per cent of the whole amount of records - were solved during the conciliation phase (Figure 4). In this type of understanding the judges became involved to some extent. Their participation in the dealings of the parties during this phase was through the conciliation hearings, as well as in the examination and approval of the terms established by the parties in the agreements by a group of judges. According to my assumptions, this corresponds to an intermediate level of state involvement in the resolution of labour disputes. Around 14 per cent of the total were arbitration awards. These cases are characterised by a lack of

independence of the parties in relation to the state. Finally, about a quarter of the cases were solved by the parties independently.

Second, we can see that the annual number of cases of the three types of procedures experienced an increase between 1978 and 1991 (Table 16). Direct negotiations more than doubled (increase of 156 per cent) and conciliation increased even more than this, reaching 170 per cent. The most outstanding increase, however, was experienced by the amount of arbitration that soared, rising 1,308 per cent.

Figure 4: Agreements per type as a proportion of the total, Rio Grande do Sul, 1978 – 1991

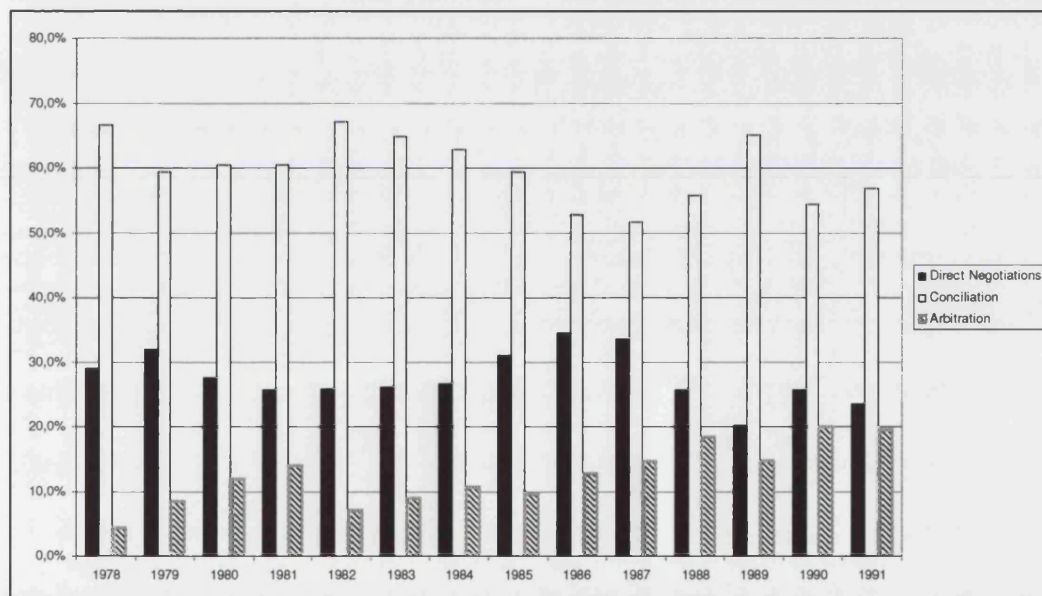


Sources: DRT-RS and TRT-RS

The third finding of the analysis is that the level of involvement of the Labour Courts in the resolution of labour disputes increased during the period. This is indicated by the increase of the participation of court cases in the annual amount of settlements and, especially, by the increase of participation of the amount of arbitrations in the total. In 1978, around 29 per cent of all cases were solved through direct negotiations, while 71 per cent had a measure of involvement of the Labour Courts. In 1991, the number of direct negotiations declined (amounting to around 24 per cent of the total cases recorded

in that year), while that of court cases increased to around 76 per cent. Among the set of court cases, we can see that the participation of the amount of conciliations in the total amount of cases declined (decreasing from around 67 per cent of all cases recorded in 1978, to around 57 per cent in 1991) while arbitration experienced a large increase, rising from around four per cent in 1978 to around 20 per cent in 1991 (Figure 5).

Figure 5: Evolution of the distribution of bargaining procedures, per type and per year, 1978-1991



Sources: DRT and TRT

Comparing patterns of behaviour (expressed in the type of procedures adopted by the parties) of the period prior and after 1978, we can see that unions and management became less dependent on the state. In Chapter Three I have shown that, in 1972, according to Mericle (1974), around 55 per cent of the cases of labour disputes, in the Greater São Paulo Region, were solved through arbitration. In the same year conciliation amounted to around 26 per cent, and direct negotiations to around 19 per cent. We can also see that between 1978 and 1991, in Rio Grande do Sul, the figures were quite distinctive from those provided by Mericle. Most of the cases were solved

through conciliation and only a small part was resolved through arbitration. Even though I have to be careful with the comparison, since the data refer to different regions and to a distinctive amount of bargaining units, I can conclude that the increase of proportion of conciliation and the decline of arbitration indicates a move towards greater levels of independence of the parties from the state.

Summing up, I have shown that, in Rio Grande do Sul, between 1978 and 1991, not only unions and management negotiated more frequently, but also that they became more autonomous in relation to the state compared with the patterns prevailing in the period prior to 1978. There is evidence that the majority of the cases of labour disputes was solved during the conciliation phase, which indicates that a move towards lower degrees of state involvement in negotiations occurred. We also have seen that despite the increase of autonomy, there is evidence that the level of involvement of the tribunal in the resolution of labour disputes experienced an increase throughout the period. This is indicated by the growth of the participation of the amount of arbitrations in the total amount of cases.

These findings bring up two questions. The first, which is my concern in section 7.2, is what is the nature of the union-management relationship? The second, the concern of section 7.3, is whether or not, and to what extent, the Labour Courts undermined the authority of the parties in the regulation of the union-management relationship?

7.2 Changing patterns of the union-management relationship

In this section I analyse the evidence collected in the interviews. I assess more accurately than through the statistical analysis whether or not, and to what extent, changes in the behaviour of unions and management in dispute resolutions occurred. I assume that this can be assessed by analysing: (a) the propensity for negotiations; (b)

the responsiveness of the interest association to members' needs; and (c) the concern these associations demonstrated in being effective in defending their respective interests. The analysis of the dispute resolution process is focused on the character of the encounters of the parties. The responsiveness is indicated by the methods employed by unions and employers' associations to assess the demands of their members, by the links that exist between leadership and work places, and by characteristics of the list of demands. With regard to responsiveness, I am particularly concerned with the size of the lists and to whom the lists were directed. Finally, the effectiveness is indicated by the measures adopted by the parties to prepare for negotiations and by the means they adopted in order to exert pressures over each other.

According to all respondents, negotiations routinely took place during the phases referred to, in Rio Grande do Sul, either as 'wage campaigns' ('campanhas salariais') or as 'collective dissents' ('dissídios coletivos'). As we have seen in Chapter Three, the 'wage campaigns' were a long-standing tradition in Brazilian industrial relations. They were aimed at revising the terms established in collective agreements or arbitration awards. In the period prior to 1978, these campaigns were characterised by: (a) lack of (or very little) autonomy of the parties in relation to the state; b) lack of (or very little) responsiveness of unions to workers' interests; c) lack of (or very little) effectiveness in negotiations. The analysis of the respondents' statements suggests, however, that during the eighties a break away from these patterns of social relations occurred. These aspects are expressed in the analysis of the routine followed by the parties in the wage campaigns.

The 'wage campaigns' routinely started around two months before the expiry date of the current settlement - referred to, in Brazilian industrial relations, as 'reference date' ('data base'). Based on the interviews held with the selected representatives of

trade unions and of employers associations, we can see that these campaigns usually comprised three stages, namely: (a) the establishment of the list of demands; (b) the preparation of the negotiations; and (c) the negotiation phase. In the subsections below I describe and discuss how a wage campaign in the selected segment of the engineering industry of the Greater Porto Alegre region unfolded during the eighties.

7.2.1 The list of demands

The first step of a 'wage campaign' was the associates assembly, which was called by union officials with the purpose of discussing and determining the list of demands (the 'pauta de reivindicações'). According to union directors, the list discussed in these assemblies would be earlier drafted in preliminary and informal meetings between union officials and work place representatives (Respondents 8, 9 and 10). After being approved by the members, the 'pauta' was sent to the respective employers' association ('sindicato patronal'). Routinely, another copy was sent to the tribunal, which means that the process was filed in the Labour Courts (Respondents 8, 9, 10). The reasons that led the parties to file the case in the Labour Courts and its implications are discussed in section 7.3.

On the employers' side the process of negotiations started when the list of union demands arrived. According to employers' representatives, after a preliminary examination of the 'pauta' either by a permanent negotiation commission, which was the case in the jurisdiction of the municipality of Canoas, or by an ad hoc group, the list was discussed in an assembly of members (Respondents 6 and 7). A counter-proposal was then drafted and, after approval by an assembly of members, submitted to the employee representatives at the negotiation counter.

Comparing the patterns of union-members and union-management relationships of the eighties with those prevailing in the period prior to 1978 (see Chapter Three), we

can see that, on the one hand, union leaders managed to overcome the situation of insulation from the rank-and-file prevalent in the period prior to 1978 as regards to the drafting of the list of demands. First, there is evidence that unions became (or were concerned with becoming) more responsive to the interests and needs of members. This is indicated by the fact that union leadership had discussions with work place representatives, prior to the assembly, in order to assess the demands of rank-and-file. That is to say, union directors no longer drafted the list of demands alone in their offices, as they had in the past. The concern of union leadership with responsiveness is also indicated by the fact that the lists of demands became more extensive. An employers' association director stated that these lists considerably grew in size and in the range of issues during the eighties. In the early nineties the 'pautas' included about 150 or more different items (Respondent 7). The rise in the size of the lists indicates that union directors became more open to the claims of different groups of workers in their jurisdiction. Second, the concern of the leadership with the needs and interests of members suggests that unions managed to improve their links with work places. This fact is expressed in the struggle of workers' leadership for the right of the union to appoint their own representatives in the legal work place Accident Prevention Commissions – the CIPAs (see Chapter Four). This fact was not only pointed out by union leaders but also by employer representatives (Respondents 6, 7, 9, 10). As we have seen in Chapter Three and Four, union-work place links were very weak (or were lacking) in the period prior to 1978. In my judgement, by becoming better organised at the plant level, rank-and-file workers managed to establish channels through which they participate in the internal decision-making of the union, at least to some extent. On the other hand, we can see that unions had started to regard employers as their counterparts, rather than the tribunal judges, as was the case in the past. This is expressed in the fact

that workers' representatives, instead of simply sending the demands to the tribunal, as they used to in the period prior to 1978, sent a copy of the list directly to employers.

7.2.2 The preparation for the negotiations

After having approved the list of demands, and after having sent it to their counterparts, unions routinely organised a negotiation commission and started to prepare for the negotiation phase. According to the representative of the Canoas trade union, the negotiation commission included between ten and fifteen members, 60 per cent were representatives of the workers of the largest enterprises. The same respondent said that, in the period prior to 1978, in the jurisdiction of the Canoas union and elsewhere, the team of negotiators would include only a few people. In general it was formed by the union director and by the union judicial assistant (Respondent 10). In the municipality of Porto Alegre, the negotiation team was formed by four union directors plus ten activists, chosen by members in assembly (Respondent 9). On the employers' side, in the municipality of Canoas, in the late eighties, employers set up a permanent negotiation commission that was presided over by a professional negotiator. This included the representatives of human resources departments of several firms. This team had regular encounters every week and acted in accordance with the parameters established by the directors of the interest association and by members in the assemblies (Respondent 7). Finally, the negotiation commission in the municipality of Porto Alegre was formed by ten members: four were representatives of large enterprises, three of medium-size enterprises and three of small firms (Respondent 6). These members were chosen in the assembly of managers. As we can see in the description above, on both sides, the negotiation commission included representatives of members of different firms. This was also a break away from features of the past, since in the phase prior to

1978 in general only the directors of the interest associations plus the judicial assistants carried out the negotiations.

According to the directors of the selected trade unions, to the director of the employer's association of the municipality of Porto Alegre, and to a Labour Courts representative, apart from setting up a negotiation commission, the preparation phase also included: a) the collection of data on the economic performance of the enterprises and on the current situation of the economic context; b) the establishment of goals and the definition of priorities and of crucial demands; c) the determination of bargaining limits; d) the establishment of negotiation strategies and pressure tactics. These respondents also maintained that, in this phase, lawyers, professional negotiators and advisory agency specialists played a role in the preparation of the negotiations. On the employees' side, unions sought the help of professors of the regional universities and especially of the Inter-Union Department of Statistics and of Social and Economic Studies (Departamento Intersindical de Estatísticas e Estudos Sócio-Econômicos – DIEESE), a national union advisory organisation maintained by union funding (Respondents 2, 6, 9 and 10). DIEESE provided data on the nature of the evolution of the economic context (such as the level of unemployment, the rates of economic growth and productivity increases), as well as advice in the practice of negotiations. On the employers' side, management had the legal and logistic support of the FIERGS, the employers' state federation of the manufacturing industry of Rio Grande do Sul ('Federação das Indústrias do Estado do Rio Grande do Sul' – FIERGS). Employer representatives affirmed also that they hired well-known national consultants specialised in collective bargaining, such as Júlio Lobos (1988) and Wilson Cerqueira (Respondents 6, 7, 9).

The description of the routine of the preparation phase suggests that, during of the eighties, changes of patterns of union-management relationship occurred. The parties not only struggled to become more responsive to the interest of members, which is indicated by the way union directors drafted the list of demands, but they also were concerned in becoming more effective in their dealings. First, on both sides the negotiation commissions enlarged significantly in size, including representatives of different groups of members chosen in assemblies. Apart from being a means of assessment of the interests of the members, the enlargement of the commission was a way by which the interest associations managed to involve members and by which they sought their support during the negotiation phase. The members of the commissions remained in permanent contact with the rank-and-file during the understandings in order to be kept informed of the progress of the dealings and to undertake strikes or other form of pressure group activity. Second, the parties improved the preparation of the negotiators with the help of professionals in order to become more effective during negotiations. This is indicated by the investments made by unions and employers' associations in training activists and managers in negotiation techniques. The effect of these attitudes came to the attention of the representatives of the Labour Courts. The head of the regional tribunal stated that in the late eighties the parties 'were more well-prepared', 'improved their negotiation techniques', and that the 'dialogue between the parties' ameliorated considerably (Respondent 1). These facts were novelties in Brazilian industrial relations since, in the past, the parties hardly had any training in negotiations.

7.2.3 The negotiations

The aim of the first meeting between unions and management was to establish rules for the negotiations, namely, a timetable for encounters and the place where the

parties were to meet. The opening encounter generally happened weeks before the reference date, and the negotiations could last as long as two or three months after the expiry date of the current agreement (Respondent 10). If the process was filed in the Labour Courts, and it routinely was in the selected segment of the economic activity, the parties were summoned to attend conciliation hearings, which typically numbered one or two. Despite the involvement of the tribunal, according to the selected representatives of employer associations and trade unions, the parties routinely continued to negotiate without the participation of the judge, following their own timetable until an agreement was reached (Respondents 6, 7, 8, 9, 10).

The union directors of the engineering industry of Porto Alegre and of Canoas stated that, in the course of the negotiations, rank-and-file workers were kept updated on the evolution of the dealings (Respondents 9 and 10). They were called to assemblies to decide upon issues that came up at the negotiation table whenever a more crucial aspect appeared, and they were organised with the intention of exerting pressure on employers during the process. Workers held gatherings in front of the gates of the enterprises, threatened to go on strike and, if the context was favourable, and if employers were very reluctant, actually organised strikes. Frequently, union leaders sought the support of the public opinion for their claims by means of radio or television interviews, by publishing articles in newspapers, or by distributing pamphlets on public ways. Employers responded to union pressure by threatening employees with dismissals or by actually dismissing employees, by appealing to Labour Court intervention, in the period prior to 1988, by introducing organisational and managerial changes in the firms such as participation schemes, and by improving working conditions, which I will illustrate further in section 7.4.

As soon as an agreement was reached, the terms of the settlement were submitted to an assembly of employees (Respondents 9 and 10). If approved by the members, and if it had been filed in the Labour Courts, the agreement was sent to the tribunal and then examined by a group of judges. As soon as the agreement was approved ('homologado') it was registered in the files of the regional tribunal. The employers, after the end of the negotiation rounds, submitted the agreement to their members in an assembly as well and, if approved, the terms were sent to the tribunal for approval and registration.

As we can see from the analysis of the interviews, during the negotiation phase changes in the patterns of union-management relationship also occurred. A key feature was that unions and management became more autonomous in relation to the state in regulating their relationship. This is indicated, firstly, by the fact that negotiations started well before the tribunal summoned the parties for the conciliation hearing. Secondly, the parties continued to negotiate even after the conciliation hearings took place. That is to say, the dealings between unions and management were held without, or with little, involvement of the judges even though the case was filed in the tribunal. According to a union director, in the course of the round of negotiations the participation of the judges occurred only a few times, or not at all if the parties reached an agreement before the conciliation hearing took place (Respondent 9). As we have seen in Chapter Three, in the phase prior to 1978, if negotiations took place at all, they occurred during the conciliation hearings. In the past the initiative to reach an understanding was undertaken by the judge, rather than by the parties in these encounters. Thirdly, another indicator of the increase of party autonomy was the fact that the discussions were primarily held between the parties rather than between parties

and judges, as was common in the period prior to 1978. Fourth, union pressures were exerted only on employers and no longer on the judges in the tribunal.

A second change in the union-management relationship was that during the eighties the dealings between the parties could be characterised as power relationships rather than as formal meetings. In contrast to the past, which was characterised by lack of (or weak) union pressures and industrial action, during the eighties unions really exerted pressure on management by making strike threats or by organising strikes. Moreover, in contrast to the past, which was characterised by a top-down style of workers' mobilisation and by lack of firm-level organisation (see section 3.4, Chapter Three), during the eighties unions managed to increase their strength by organising workers at the work place, at least to some extent. Employers' responded to union pressures, according to the selected union leaders, by threatening with dismissals of (or by dismissing) activists and by appealing to the Labour Courts, especially when strikes occurred (Respondents 9 and 10). After 1988, employers used to resort to the tribunal pleading with the judges to declare the strikes 'abusive'. In case the courts did so, which was rare, according to an employers' representative (Respondent 7), managers were free to fire reluctant workers with a just cause and without having to pay the legal fines.

The form of organisation of the 'wage campaigns' during the eighties indicates not only that workers and employers managed to become more autonomous in relation to the state, and that they managed to become more responsive and effective, but also that they were willing to negotiate. The propensity for negotiation is expressed in statements collected in the interviews. According to the union director of the Canoas jurisdiction "the parties did not wait until the Labour Courts decided the case. They settled their disputes through negotiations" (Respondent 10). The union director in the Porto Alegre jurisdiction also stated: "we tried to get every [concession] we could

through negotiations, pressures, and strikes". He added "the parties would reach an agreement without relying on the judges in the tribunal" (Respondent 9). The employers' association representative in the Porto Alegre jurisdiction also maintained "the parties did not want the cases to be decided by the judges" (Respondent 6). These aspects indicate that collective bargaining relationships developed during the period in the selected economic sector.

In conclusion, in this section we have seen that the majority of the labour disputes registered in Rio Grande do Sul between 1978 and 1991 were solved with a measure of involvement of the regional tribunal of labour judges. This fact indicates that the parties developed medium level of autonomy in relation to the state. The evidence collected in interviews shows that, in spite of the Labour Courts' involvement, a considerable bargaining activity took place in Rio Grande do Sul, inside and outside the tribunals, during the period under investigation. Based on the statements of the respondents, we can see that there is evidence of an alteration in the patterns of union management relationship in a number of aspects. I have shown that the parties were willing to negotiate and that they became more autonomous in relation to the state. I have also demonstrated that the interest associations became more responsive to the needs and expectation of their members. Furthermore, I have shown that unions struggled for and actually managed to increase their bargaining power by organising employees at firm level in order to more effectively represent and protect the interest of members in the negotiations. Finally, we can see that the phases of the resolution of labour disputes bear resemblance, at least to some extent, to typical processes of negotiations that exist in collective bargaining-based industrial relations systems.

From these findings I can draw the conclusion that the dispute resolution processes (the 'wage campaigns') took the form of collective bargaining relationships.

Hence, we can say that collective bargaining developed in Rio Grande do Sul between 1978 and 1991. Combining now the conclusions drawn from the statistical analysis with those drawn from the analysis of the interview statements, we can say that the progress of collective bargaining was coupled with a measure of involvement of the Labour Courts. Hence, at this point of the analysis evidence confirms the corporatism-is-dead hypothesis. The corporatism-is-in-transition hypothesis is not confirmed since there is no evidence of a continuous increase of the levels of autonomy of the parties to the negotiations in relation to the state in dispute resolutions.

The next section is concerned with the nature of the involvement of the Labour Courts in dispute resolution processes. The question is to what extent the labour Courts became involved in the union-management relationship and what was the function of the tribunals in these processes.

7.3 The involvement of the Labour Courts in the resolution of labour disputes

The crucial issue at stake in this section is whether or not, and to what extent, the Labour Courts undermined the authority of the parties in the regulation of union-management relationships (my concern in section 7.3.1). A related issue is the role the labour tribunals played in dispute resolutions (section 7.3.2). I assume that if there is evidence that the tribunals did not hinder the progress of negotiations, and if the authority of the parties in relation to the state was not significantly undermined, then we can confirm that a development of a collective bargaining relationship occurred during the eighties.

7.3.1 The extent of Labour Courts' involvement in negotiations

The focus of this section is placed on the conciliation phase. This is because the majority of the cases were solved at this stage and because this is a phase during which the decisions made by the parties depended on their own initiative.

A court case starts whenever a legal trade union or a legal employers' association filed a case of collective labour dispute in the Regional Tribunal of Labour (Tribunal Regional do Trabalho - TRT). As a rule, since thirties, when the labour tribunals were set up, this type of case took place during the phase of annual renewal (or renegotiation) of the terms established either in the collective agreement negotiated in the previous year or in arbitration awards. Once filed in the tribunal, the process was designated to a career judge and the parties were summoned then for a conciliation hearing.

Before filing the cases in the tribunal the law required the parties to try to solve their disputes by themselves, through direct negotiations (Article 616 of the CLT). According to the representative of the Ministry of Labour (Respondent 3), in the seventies and until the mid-eighties, the tribunal had a lax approach to this matter. The judges fell short from actually verifying whether or not the parties had tried to solve their disputes directly. The implication of this was that the majority of unions and management, at least in Rio Grande do Sul, following tradition, filed the process in the courts, skipping the direct negotiation phase. In the late eighties and in the nineties, however, the judges became stricter by demanding, firstly, a written statement from the parties in which they declared that they had unsuccessfully tried direct negotiation. Secondly, the judges also required a record of the parties' meeting proceeding in the regional office of the Ministry of Labour, which is referred to as 'round-table meeting'. These meetings were the second step (in the process of resolution of their collective

disputes) required by law. The representative of the Ministry of Labour stated that, in general these encounters were *'pro forma'* meetings (Respondent 3). In other words, the respondents suggest that the parties (at least most of them) fell short from undertaking negotiations in the regional office of the Ministry of Labour, the Ministry seemingly lacking the power to put pressures on the parties for them to start negotiating.

The first time the state became directly involved in the resolution of union-management collective disputes occurred in the Labour Courts at the conciliation stage, specifically at the conciliation hearing. The respondents' statements suggest that at this phase the level of involvement of the judges in party dealings was low. The representatives both of the employers' association and of the trade union in the engineering industry in the municipality of Porto Alegre described the conciliation hearings as a *'ritual'* (Respondent 6) or as a *'formality'* (Respondent 9). Moreover, as we shall see, all selected unions and management representatives suggest that the judges played a rather secondary role at this stage.

By analysing the following statements of the representatives of workers and employers we can see how the parties describe and perceive the involvement of the judge in their dealings at the conciliation stage. In the view of the selected union leaders, conciliation hearings were of little help and they did not rely on the judges for making decisions:

'The parties did not wait until the tribunal decided the case; they rather settled the dispute through negotiations' (Respondent 10);

'The conciliation [hearings] were of little help; despite having filed the process in the tribunal, on several occasions, we reached an agreement with employers without having to attend to conciliation hearings' (Respondent 9);

'There is little interference of the judges in the negotiations' (Respondent 8).

Employers' perceptions were the same as those of employees. They suggest that the judges refrained from becoming directly involved in the dealings and that the agreements were reached through the initiative of the parties. They maintain not only that the conciliation stage was a period during which the parties held their understandings (Respondent 5), but also that during this phase the judges refrained from becoming involved in the dealings of the parties (Respondent 5). The employers' association representative of the municipality of Porto Alegre provided one of the most expressive descriptions of a typical conciliation hearing. According to him, the role of the judge in those meetings was rather formal and he had very little involvement in the dealings of the parties:

“The judge requires the parties to identify themselves (...). Then he asks the representatives: ‘Are you able to reach an agreement?’ The employees respond: ‘We have been negotiating during the last three weeks and what employers are conceding is far below our expectations.’ The judge asks employers: ‘Can you improve the concessions?’ Employers respond: ‘No. We have already reached the maximum what we can really concede. This is our last offer.’ Then the judge turns to the secretary and dictates: ‘The parties stated that they are negotiating.’ [End of session] This is something ‘mechanical’, (...). I think he does this more than ten times a day. (...) Is this of any help? It is a mere ritual (Respondent 6).

This account indicates, firstly, that the parties developed a more autonomous posture in the process of settlement of their disputes in relation to the state. Secondly, since very little or no involvement of the judges occurred in the dealings of the parties, we can say that the judges fell short from significantly undermining their authority in dispute resolution processes. These conclusions confirm the findings of section 7.2, in which I concluded that negotiation processes developed with little or no involvement of the judges.

At the conciliation stage, the most extensive involvement of the judges occurred after the parties reached an agreement. We have seen earlier that these agreements were required by law to be approved by the judges. This process is called ‘homologação’ in

the Brazilian labour law. The negotiated agreement was submitted to a group of judges, who, according to a labour lawyer (Caye 2003), verified, in the first place, whether or not the agreement provisions diminished rights established in the CLT, namely the rules that regulate the individual labour contract. If the conditions established by the parties were less favourable, they were not approved. Second, the judges did not approve the clauses that established racial, gender or class discrimination. Third, the tribunal did not approve provisions that were deemed to spoil the interest or well-being of employees. This was the case of the size of the discount of the employees' 'social contribution' to the union. If it were deemed to be too high it was eliminated or trimmed by the tribunal. We can see that the judges approved legal and extra-legal issues providing there was no diminishment of rights, and providing the arrangements would not spoil the workers' well-being. This means that by interfering in the output of the negotiations, the judges undermined a measure of authority of the parties. At the same time, the tribunals left considerable room for the parties to regulate a large range of employment issues that did not fall within the criteria of elimination adopted by the judges. This means that the authority of the actors was not significantly undermined by the Labour Courts, which in turn means that the tribunals did not try to hinder the development of collective bargaining relationships. It should finally be noted that this type of involvement of the Labour Courts characterises the medium-level of autonomy of the parties in relation to the state in dispute resolutions.

In the cases of arbitration, the decisions of the judges were based on the rules established by the Superior Tribunal of Labour. These rules were referred to by the law as 'normative precedents', which were derived from recurring decisions of that tribunal in settling labour disputes. These rules were guidelines for the decisions of the regional

tribunal judges in cases of arbitration, which will be discussed in greater depth in the next sub-section.

Summing up, in this section I have shown, firstly, that the judges did not interfere in the dealings of the parties. Secondly, I have shown that the involvement of the judges was more prominent when the outputs of the dealings were submitted for approval. I demonstrate that at this stage a measure of authority of the parties was undermined. I suggest, however, that the involvement of the courts fell short from significantly undermining the development of collective bargaining, which is expressed in the patterns of union-management relationships (see section 7.2). Since there is evidence that the bargaining units acted as interest groups, which is to say, since the dealings of the parties could be characterised as power relations, I conclude that the form of regulation of industrial relations changed during the eighties. I assume that power relations occur, on the union side, if they manage to organise, on their own, at the work place, as well as to organise union assemblies, gatherings of members within and outside the firms, and to make strike threats and strikes. On the employers' side, pressure over unions is indicated by the threat of dismissals and the actual dismissals of employees. Since there is evidence of power relations, in my understanding, we can confirm the corporatism-is-dead hypothesis. In my view, the preservation of a measure of dependency of the parties in relation to the Labour Courts is not incompatible with the assumptions underlying this theory, since the move from high levels to medium levels of dependency represents a break with the past. Conversely, the corporatism-is-not-dead hypothesis is not confirmed, since there is evidence of significant changes in the behaviour of the parties in relation the patterns prior to 1978 (see Chapter Three). Finally, the corporatism-is-in-transition hypothesis is also not confirmed, since there is

no evidence of a continuous increase of the autonomy of the parties in relation to the state.

In order to capture the role of the labour tribunals in the regulation of industrial relations during the eighties and early nineties, I further investigate the behaviour of the parties in dispute resolutions in the section below.

7.3.2 The labour tribunals and the development of collective bargaining

In this section I identify the motives that led the parties to apply to the Labour Courts and their implications for the regulation of industrial relations. Unions and management pointed out in the interviews different reasons that led them to apply to the Labour Courts. I then discuss the consequences and the implications of their behaviour. The analysis is based on the statements collected in the interviews.

Union directors pointed out, in the first place, that filing the processes in the tribunal was a way to preserve the current reference date ('data base'), the expiry date of the current collective agreement or arbitration award. The date would be maintained if the parties filed the process in the Labour Courts before the expiry date of the current settlement. If it were filed in the tribunal in time, and in spite of the agreement between the parties being reached several weeks after the reference date, the Labour Courts would guarantee that the concessions of employers would retroact to (or would be valid from) the current reference date (Respondents 8, 9, 10).

If union leaders missed this date, then the terms of employment set in the previous agreement would lose validity. It would then take several months for a new reference date to be established. According to the rule, the date would be set as soon as a new settlement was reached, or as soon as the final decision of the tribunal (the arbitration award) was made. During the period between the end of validity of the previous agreement and the establishment of a new one, management would set the

terms of employment unilaterally. In the eyes of workers, employers' regulations would be unfavourable to their interests (Respondents 8, 9, 10).

According to workers' representatives, if the union leadership failed in preserving the current reference date, they would be regarded as incompetent by the rank-and-file. This would have damaging consequences for their legitimacy before associates and would undermine their chances of being elected for another term in office (Respondents 8, 9, 10).

The second reason for filing the process in the labour tribunal pointed out by union directors was that it was a way to 'guarantee the minimum'. This 'minimum' was viewed as a last option that they would resort to in case of the break down of negotiations. It was seen as a means to win concessions or, as a way to preserve the gains won in the negotiations held in previous years (FTM 1991). The label 'minimum' referred to employment issues (called 'historical conquests' – 'conquistas históricas') that unions expected to obtain through arbitration. The 'historical conquests' unions expected Labour Courts to grant them were concessions won by stronger categories of workers. These 'conquests' could be either pay-related issues or employment conditions called 'social clauses' ('cláusulas sociais'). These 'historical conquests' were provisions established in lists called 'normative precedents' ('precedents normativos'), which were consolidated judicial decisions of the Superior Tribunal of Labour (TST). According to Horn (2003: 203-207), these rules were expressions of the normative powers of the Labour Courts. They corresponded to a set of rules won by strong unions that were approved by the tribunals or were granted in recurrent judicial decisions. The regional labour tribunals were expected to decide accordingly in arbitration awards. This means that if unions in collective bargaining processes did not obtain the corresponding clauses, they were very likely to be granted by the tribunal in arbitration awards

according to the representatives of the Labour Courts (Respondents 2 and 3). This was the case of overtime pay rates, which in successive decisions of the Superior Tribunal of Labour was granted at 100 per cent on top of normal pay (Horn 2003: 203). By granting the rules included in the 'normative precedents' to different categories of workers, the Labour Courts played a role in extending rights won by a small group of employees to the rest of the working class.

The list of normative precedents handed to me in 1992 by the representatives of the Labour Courts included 46 different provisions, which ranged from pay-related issues, overtime, provisional stability to employees near retirement time, quitting, holidays and others. The importance of the normative precedents was considerable for workers' interests. This is expressed in the fact that around 30 per cent of the agreement items established in 1991 in the annual agreement of the engineering industry of the Greater Porto Alegre region were identical to those included in the list of the Superior Tribunal of Labour. This means that if these provisions were not obtained in collective bargaining they would be granted through arbitration.

The third reason that led the parties to apply to the Labour Courts that was mentioned by the representatives of the Ministry of Labour and by the regional director of DIEESE was that the agreements established in the courts (or the arbitration awards) had the force of the law. By registering the process in the tribunal, and by having it approved by (or decided by) the judges, the parties could ensure the compliance of the terms of the agreement, by reluctant employers, more readily. If the collective agreement was registered in the Ministry of Labour, it would be more time consuming and would demand a lot of paper work for employees to have their grievances solved. The Labour Courts were empowered to arrest goods or properties of the parties that refused to obey the rules (Respondents 3, 4 and 11).

The fourth reason pointed out by union directors was that they intended to anticipate the moves (or actions) of employers. They maintained that employers routinely filed the process in the courts. If the process were filed by management before the union did, then the working conditions proposed by employers would be unfavourable to them. The party that arrived first would establish the working conditions that better suited its needs. In addition to not being authorised to include workers' demands in the process, in case unions were second, employees would have to contest the offers ("contestar o processo") of employers rather than have the latter respond to unions' claims (Respondents 8, 9 and 10).

A fifth reason pointed out by union leaders was that filing the process in the courts was a well-rooted tradition or cultural trait among the working class (Respondents 9 and 10). According to them, workers regarded this as 'normal' behaviour. They 'felt secure' having the process in the hands of the tribunal.

On the employers' side, two reasons were pointed out for them to file the processes in the Labour Courts. First, they regarded it as a means, "though not a perfect one", to keep "order" and to solve disputes in industrial relations (Respondent 6). In case of strikes, the law entitled employers to appeal to the tribunal to declare employees' actions 'abusive'. If they managed to have their claim approved, employers were entitled to dismiss workers with a just cause and without notice. In this case the costs of dismissals would be much lower than otherwise. Even though it was not easy for the tribunals to declare the strike 'abusive', according to the same respondent, unions viewed this piece of legislation as a deterrent of industrial actions.

A second reason pointed out by employers' association directors was that it was a way to put pressure on employees. They maintained that by filing the process in the tribunal they could threaten to break up negotiations and leave the case to be decided

through arbitration, especially if the negotiations extended well beyond the reference date (Respondents 6 and 7). These were occasions in which rank-and-file pressures over leadership for a swift resolution of the case increased. The employer respondents maintained that unions were very reluctant to let the case be decided by the judges. Apart from being unsure whether or not the judges would decide in favour of their claims, workers knew that the tribunals tended to strictly adhere to what was in the law. Since the tribunal's approach was legalistic, then it was very likely that the judges would deny extra-legal issues even if the parties had agreed upon them.

Applying to the Labour courts, however, could bring negative consequences for the interests of both sides. From the employees' perspective, the first negative consequence was the slowness of the tribunals to approve or to decide cases. According to the director of DIEESE, as a rule it took about three months for the judges to approve the terms of the agreements settled during the conciliation phase and about four months, and sometimes more than this, for the parties to have an arbitration award (Respondent 4). However, the time span could be much longer if the parties appealed against decisions made by judges of the regional tribunals to the Superior Tribunal of Labour (Tribunal Superior do Trabalho – TST). According to two union directors, the final decision could take two or three years. And, often, when the decision of the TST arrived, it was outdated. Wage related issues – mainly the size of wage increase - including the discount of union dues in the payroll, were withheld until the final decision of the TST arrived. According to union representatives, in the meantime employers refused to undertake negotiations on the grounds that they were awaiting the final decision of the TST (Respondents 8 and 10).

The second negative consequence of applying to the Labour Courts was, in the eyes of union directors, that the judges granted strictly what was in the law (or what was

in the instructions of the Superior Tribunal of Labour that were embodied in the 'normative precedents'). Extra legal issues tended to be denied by the tribunal because the tribunals were required to be in line with government policies (Cardoso 1999: 85). This was the case of the negotiated wage increases that deviated from the legal rules during the phase in which the official stabilisation plans of the eighties were launched (Respondents 4, 9 and 10).

Finally, the third negative consequence in applying to the Labour Courts, in particular when one of the parties appealed to the Superior Tribunal of Labour against the regional tribunal's decisions, was that the former frequently denied gains conceded by the latter (Respondent 10). That is to say, in the view of union representatives the Superior Tribunal's decisions tended to be more favourable to employers rather than to employees. For instance, in April 1990, the Regional Tribunal of Labour of Rio Grande do Sul decided to grant to an engineering workers' union of Rio Grande do Sul a 44 per cent wage increase. The final decision of the Superior Tribunal was to grant employees just 23 per cent (Respondent 8 and 10).

On the employers' side, the first disadvantage in applying to the courts was the slowness of the tribunals. The second disadvantage was that the concessions they made to employees in a given year tended to become permanent. According to a managers' representative, once a benefit was formally granted and was approved by the courts it became very difficult for them to eliminate the issue in subsequent agreements. This was the case of the length of service wage supplements. The tribunals tended to approve the claim in arbitration awards whenever employees made the demand, even though managers wished to eliminate the item (Respondent 6).

The third disadvantage in the eyes of employers was that the tribunals lacked flexibility to adapt their decisions to specific contexts. An employers' association

representative pointed out that some of the issues decided upon by judges did not fit the needs or the capacity of isolated firms (Respondent 6). For instance, sometimes the size of the wage increase granted by the tribunal to some categories of employees was superior not only to inflation rate of the preceding wage period, but also to the productivity increase of the respective economic sector. The same respondent maintained that the increases were frequently based on the size of the gains won by stronger categories elsewhere rather than grounded on accurate assessments of the performance of the regional economy.

In the discussion above I show that the parties had benefits and costs in applying to the Labour Courts. In their eyes the labour tribunals were a way they could resort to advance their benefits or to minimise their costs, according to the circumstances. That is to say, instead of being an indication of a lack of negotiations, we can see the recourse of the parties to the tribunals as part of the unions' and managers' strategy to advance their interests. For unions, the courts could function as a way to win gains that otherwise could not be obtained through negotiations. For employers the Labour Courts were a way to put pressures over unions.

In short, we may conclude, in the first place, that, in addition to the function of resolution of labour disputes, the tribunals played a role in guaranteeing workers' rights established in the CLT. Second, the tribunals also played a role in extending rights won by stronger categories of employees to the rest of the categories by deciding cases based on the normative precedents. A third role was that the tribunals ensured the compliance of the rules established in the agreements more readily and effectively than the Ministry of Labour. A fourth role was the discouragement of industrial actions at least to some extent. This is expressed in the right of employers to appeal to the courts for the judges to declare strikes illegal. Finally, the courts also played a role in encouraging collective

bargaining by demanding the parties to refrain from becoming involved in the settlement of disputes, and to settle their disputes through direct negotiations, and also by making the conditions established in arbitration awards less advantageous for the parties than those set through negotiations. In this sense we can say that the judges put pressure on the parties for them to negotiate.

The overall conclusion of this section is that the parties were able, to some extent, to develop collective bargaining relationships during the period under investigation. This is expressed in the patterns of decision-making that considerably broke away from the features of the period prior to 1978, even though a measure of dependency to the Labour Courts was not totally overcome and even though a measure of involvement of the tribunals in dispute resolution remained.

In the section below I am concerned with assessment of the impact of the new developments of the eighties on the form of relationship between unions and management interest associations in Rio Grande do Sul. I discuss the findings of the statistical analysis, combining them with the findings of the analysis of the interview statements.

7.4 Causes of the changes

This section is broken down into two parts. In the first, I assess whether or not, and to what extent, the political and economic environments affected the evolution of the procedures adopted by the parties between 1978 and 1991. In the second subsection, I analyse the results of the statistical analysis and the factors that may have had an impact on the observed evolution of negotiations.

7.4.1 The impact of the political and economic environments

In this sub-section I present the results of the statistical analysis which assesses the impact of the changes in the power context and in the economic context on the variation of the types of procedures adopted by the parties to solve their disputes. The impact of the changes of the political regime was made by applying the t-test for differences in means for the variation in the participation of the amount of cases per type of procedure in the total amount of cases and per political period. The two periods I distinguish here are: the military regime (between 1978 and 1984) and democracy (between 1985 and 1991). The assessment of the impact of the changes in the economic context on the variation in the participation of the amount of cases, per type, in the total was made by multiple regression analysis. The independent economic variables are inflation rates, rates of economic growth, unemployment rates, and real minimum wage.

If we analyse the amount of recorded collective labour disputes per type of procedure and per sub-period, we can see that during both the military regime (1978-1984) and the democratic phase (1985-1991) the majority of cases were solved at the conciliation stage within the Labour Courts, around 63 per cent and 57 per cent, respectively (Table 17). The direct negotiation procedure was the second most employed method of dispute resolution, around 27 per cent in both sub-periods. The rest were cases of arbitration, around ten percent between 1978 and 1984 and sixteen percent between 1985 and 1991. The increase of participation of the amount of arbitrations in the total amount of records per political period occurred especially at the expense of the participation of the amount of conciliations. The question is how the changes in the political environment affected the form of conduct of the parties in dispute resolutions in Rio Grande do Sul during the period.

Table 17: Amount of cases of bargaining procedures, per type and per political period, Rio Grande do Sul, 1978-1991

Sub-period	Direct Negotiation	Conciliation	Arbitration
Military Regime	742	1,714	258
Democracy	1,307	2,810	800
Total	2,049	4,524	1,058

Sources: Regional Delegation of the Ministry of Labour (DRT) and Regional Tribunal of Labour (TRT)

By applying the Chi-Square test I could verify whether or not the political environment affected the behaviour of unions and employer associations in dispute resolution. The result, displayed in Table 18, shows that $\chi^2 = 68,71$. In the Chi-Square distribution table we can see that, for a degree of freedom of two ($df = 2$), and at a one per cent of significance, the value of $\chi^2 = 9.21$. Since the χ^2 obtained is much higher than the expected frequency, the null hypothesis is rejected. This means that there is evidence that changes in the political environment and in bargaining procedure are not independent variables. That is to say, there is a probability that the variation in one variable leads to changes in the variation of the other.

Table 18: Frequency distribution of bargaining procedures, per type and per political period, expected values, significance, and value of Chi-Square test

Political Period	Bargaining procedures			Total
	Direct Negotiations	Conciliation	Arbitration	
Military Regime	742 (729)	1714 (1609)	258 (376)	2714
Democracy	1307 (1320)	2810 (2915)	800 (682)	4917
Total	2049	4524	1058	7631

Note 1: the values within parenthesis are the expected values.

Note 2: $\chi^2 = 68,71 > \chi^2_{df=2;0.01} = 9,21$

In theory, the political liberalisation process and the changes in the status of the actors in industrial relations, discussed in Chapter Four should have led to an increase of

direct negotiations and to a decline of arbitration. There is evidence, however, that indicates rather the opposite. It seems that changes in the power context led to an increase of the level of state involvement in dispute resolution. However, since the analysis of the interviews indicates that a break away from the features of the prior 1978 period actually occurred, and since these changes are consistent with the end of the corporatist constraints, there might be other factors that affected the behaviour of the parties. This is why I further investigated the evolution of the procedures throughout the 1980s by considering the impact of the economic context.

By applying the multiple regressions test, I was able to identify the extent of the impact of the changes in the economic environment on the variation of the participation of the amount of different types of bargaining procedures in the total through time. Variations in the economic environment are indicated by annual inflation rates, by the annual rate of growth of the Great National Product (GNP), by annual unemployment rates, and by the annual values of the real minimum wage index. The variation of this set of variables over time is displayed in Table 6, and the way they are measured is explained in Chapter Six, section 6.2.4.1. The values of the coefficients of determination of the independent economic variables in the multiple regression equation are displayed in Table 19 and Table 20.

The multiple regression analysis shows that there is evidence that the participation of the amount of direct negotiations in the total amount of cases was significantly affected by the variation of inflation rates, by variations of unemployment rates and by variations of the real minimum wage during the period under investigation. The variation of the rates of economic growth had no significant impact on the evolution of direct negotiations. The analysis also shows that there is evidence of a significant relationship between the participation of the amount of conciliations in the

total and the variation both of inflation rates and of the real minimum wage. Unemployment rates and the rates of economic growth did not significantly affect the evolution of the participation of the amount of conciliations in the total. Finally, the evolution of the participation of the amount of arbitrations in the total was significantly affected by the variation of the real minimum wage index only.

Table 19: Coefficients of determination, regression coefficients, F-test values, Durbin-Watson coefficient and significance of the impact of the economic environment on bargaining procedures, Rio Grande do Sul, 1978-1991

Aspects	Direct Negotiations		Conciliation		Arbitration	
	Coefficient	Significance	Coefficient	Significance	Coefficient	Significance
Adjusted R square	0.760	-	0.703	-	0.741	-
Constant	55.611	0.000 *	17.103	0.173	26.996	0.025 *
Inflation	-0.008322	0.002 *	-0.007981	0.019 *	0.0003825	0.878
Economic growth	-0.142	0.536	0.330	0.316	-0.185	0.510
Unemployment	-3.051	0.020 *	3.084	0.073	-0.01404	0.992
Minimum wage	-0.259	0.015 *	0.545	0.001 *	-0.282	0.025 *
F-test values	7.125	0.007*	5.336	0.018*	6.884	0.012*

* Significant at 5% level.

Sample size (n) = 14

Table 20: Coefficients of determination, regression coefficients, F-test values, and significance of the impact of aspects of the economic environment on bargaining procedures, Rio Grande do Sul, 1978-1991

Aspects	Direct Negotiations		Conciliation		Arbitration	
	Coefficient	Significance	Coefficient	Significance	Coefficient	Significance
Adjusted R square	0.749	-	0.544	-	0.707	-
Constant	52.08	-	36.606	-	28.088	-
Inflation	-0.007654	0.001 *	0.005366	0.049 *	-	-
Economic growth	-	-	-	-	-	-
Unemployment	-2.541	0.005 *	-	-	-	-
Minimum wage	-0.239	0.011 *	0.416	0.004 *	-0.0311	0.000 *
F-test values	10.02	0.002*	6.814	0.012*	29.063	0.000*
Durbin-Watson	2.047	-	1.498	-	1.395	-

* Significant at 5% level.

Sample size (n) = 14

In order to assess more precisely the impact of the significant independent variables in the evolution of the participation of the amount of all types of procedures in

the total, I eliminated the non-significant variables in each case. The results of the new multiple regression analysis are displayed in Table 20.

Based on the results displayed in Table 20, I conclude that the regression tests are robust. The Durbin-Watson test coefficient for direct negotiations ($d = 2.047$; for $n = 14$ and $K = 3$) indicates an absence of serial autocorrelation among the residuals at a five per cent level of significance. The Durbin-Watson test coefficient for conciliation ($d = 1.498$; for $n=14$ and $K = 2$) shows that the result falls into the indecisive positive zone. I decided that the regression test, in this case, is acceptable because the value of the coefficient is near to absence of autocorrelation zone among the residuals. Finally, the Durbin-Watson test coefficient for arbitration ($d = 1.395$; for $n = 14$ and $K = 1$) indicates an absence of serial autocorrelation at a five per cent level of significance.

The coefficient of determination (adjusted R square) shows that 74.9 per cent of the variation of the participation of the amount of direct negotiations in the total per year can be explained by variations of inflation rates, of unemployment rates and of the real minimum wage index. The equation of the model is the following:

$\text{Percentage of direct negotiations} = 52.08 - 0.007654 \times \text{inflation rates} - 2.541 \times \text{unemployment rates} - 0.239 \times \text{minimum wage index}$

This means that an increase of one percentage point in the unemployment rate leads to an expected decline of around 2.5 percentage points in the participation of the amount of direct negotiations in the total, providing inflation rates and the minimum wage remain constant. This also means that an increase of one percentage point in the real minimum wage index leads to an expected decline of around 0.2 percentage points in the participation of the amount of direct negotiations in the total, providing inflation rates and unemployment rates remain constant. Finally, an increase of ten percentage points in the inflation rates leads to an expected decline of around 0.08 percentage

points in the participation of the amount of direct negotiations in the total, providing the minimum wage index and the unemployment rates remain constant.

The coefficient of determination (adjusted R square) also shows that 54.4 per cent of the variation of the participation of the amount of conciliations in the total amount of cases per year can be explained by variations both in the inflation rates and in the real minimum wage index. The regression equation that describes this relationship is the following:

$$\text{Percentage of conciliation} = 36.606 + 0.005366 \times \text{inflation rates} + 0.416 \times \text{real minimum wage index}$$

This means, firstly, that an increase of one percentage point in the real minimum wage index leads to an expected increase of around 0.4 percentage points in the participation of the amount of conciliations in the total, providing the inflation rate remains constant. Secondly, an increase of ten percentage points in the inflation rate leads to an expected increase of around 0.05 percentage points in the participation of the amount of conciliations in the total, providing the minimum wage index remains constant.

The regression analysis finally shows that 70.7 per cent of the variation of the participation of the amount of arbitrations in the total amount of cases per year can be explained by the variation in the real minimum wage index. In this case, the regression equation that describes this relationship is the following:

$$\text{Percentage of arbitration} = 28.088 - 0.311 \times \text{real minimum wage index}$$

This means that an increase of one percentage point in the real minimum wage index leads to an expected decline of around 0.3 percentage points in the participation of the amount of arbitrations in the whole amount of cases per year.

Summing up, the statistical analysis shows that the political environment, and especially the economic context, significantly affected the conduct of the parties in the

resolution of their collective disputes. There is evidence that the political liberalisation process of the eighties affected positively the proportion of arbitration and negatively the proportion of conciliation, however there is no statistical evidence that changes in this field of social relations affected direct negotiations. Further statistical analysis shows that the rise both of inflation rates and of unemployment and, especially, the decline of the real minimum wage considerably affected the behaviour of unions and management in the resolution of their disputes. Hyperinflation and rising unemployment had a negative impact on direct negotiations. The significant relationship between the rise of prices and conciliation indicates that, in a context of rising inflation rates, the parties opted to solve their disputes by appealing to the tribunals rather than through direct negotiations. Finally, the decline of the purchasing power – indicated by the variation of the real minimum wage, which became more prominent in the late eighties and early nineties, made the parties opt for arbitration or for direct negotiation rather than for conciliation.

Combining the results of the statistical analysis and the findings of the study of the interviews, we can now discuss the significance of the results and advance some conclusions. This is the aim of the sub-section below.

7.4.2 Discussion

In the first section of this chapter we saw that between 1978 and 1991 about three quarters of the cases of collective labour disputes were registered and solved with a measure of Labour Court involvement. We also observed that in the tribunal most of the cases were solved at the conciliation stage. In the second subsection we observed that the involvement of the labour tribunals did not impede prevent negotiations from developing. This conclusion is based on interview statements that show that the interaction of unions and management in and out the Labour Courts could be

characterised as collective bargaining relationships. Hence, we can conclude that the development of collective bargaining was combined with a measure of involvement of the labour tribunals.

As regards to the factors that favoured the development of negotiations, we can point out, in the first place, the political liberalisation process. The changes in the political sphere created the opportunities for the development of negotiations, although this is not expressed in the increase of the proportion of cases of labour disputes solved through direct negotiations. A second factor that played an important role in the development of negotiations was the appearance of the new unionism. We saw in Chapter Four that the renewal of the trade union movement entailed a new attitude regarding the relationship between unions and management and between leadership and rank-and-file workers in regards to the patterns prevailing in the period prior to 1978. This is expressed, on the one hand, in the organisation of workers at the work places, which, as we have seen in this chapter, occurred in the selected segment of the engineering industry. On the other hand, this is also expressed in the rise of the propensity for negotiations. We saw that union leadership was willing to negotiate and to organise with the aim of negotiating, and that they viewed the undertaking of negotiations as a means to improve working conditions. A third factor that played a role in the development of negotiations was the direct and indirect pressure of the Labour Courts on the parties for them to solve their disputes through negotiations. Fourth, the decline of the economic context also played a role in the development of direct negotiations. This was the case of the decline of the real minimum wage, although this fact also provoked an increase of arbitration. In my view, the option of the parties for direct negotiations is likely to be derived from the fact that, over time, the parties, at least in the selected economic sector, became more reluctant to appeal to the Labour

Courts and more interested in making arrangements in which the judges could not interfere. As we have seen, union leadership feared that the tribunal might cut the extra legal rules they might freely establish, and employers feared that the courts would grant employees concessions that they would not agree with.

The factors that undermined the development of direct negotiations were, in the first place, the decline of economic conditions, in particular the rise of unemployment and hyperinflation. Moreover, although having favoured, to some extent, the rise of direct negotiations, the decline of real wages was the principal reason that led to a significant increase of arbitration. According to the director of DIEESE, this is likely to be derived, firstly, from the fact that unions decided to claim residual wage adjustments in the Labour Courts through arbitration (Respondent 4). We have seen in Chapter Four that the stabilisation plans launched by the Sarney and Collor governments during the second half of the eighties and early nineties did not fully compensate for the losses of the former wage period. These residuals were very difficult for unions to obtain through negotiations. According to the director of DIEESE, employers denied the concession arguing that they were obeying the law. Hence, the only way unions expected to have a chance to achieve their goal was to appeal to the labour tribunals with a view to obtaining a revision of the federal government's decisions.

The second factor that, in my view, led to an increase of Labour Court involvement in dispute resolutions – and in particular to the rise of arbitration – was the decline of union strength in the final year of the period considered in this research. This decline was emphasised by a representative of employers' associations and by union directors (Respondents 7, 9 and 10). The decline of union bargaining power is indicated by the increasing difficulty of union leadership in mobilising employees in the final years of the period, as well as by the changes in the focus of workers' interests in

collective bargaining. According to an employers' representative (Respondent 7), in the late eighties and early nineties the priority of unions became the preservation of jobs rather than the improvement of wages and working conditions.

According to a union director (Respondent 10), the new forms of work organisation, and in particular the participation schemes introduced by firms throughout the eighties, negatively affected the strength of workers' organisations. The respondent maintained that the modern methods, which imply employee involvement and "ideological co-optation", were undermining 'workers' organisation at the plant level'.

The representatives of the selected employers' associations (Respondents 6 and 7) also referred to the changes in work organisation. They pointed out that, after having been taken by surprise by the vigour of the trade union movement in the late seventies and early eighties, management responded to the increase of union pressures by introducing organisational and managerial changes in the firms. According to them, as well as to a union director, firms aimed at reducing labour conflicts, at reducing costs and at improving quality. In addition to bringing in new equipment, new managerial strategies, and to diversifying production, the respondents stated that intermediary levels of the corporate bureaucracy were eliminated and that dismissals were on the rise. Moreover, they maintained that the firms introduced participation schemes, such as quality circles and production cells, and new forms of employment (or 'atypical' forms of work) (Respondents 6, 7 and 10). I assume that the new forms of employment led to a decline in labour conflicts by negatively affecting union capability to recruit members. According to Ben-Israel and Fisher (1994: 135, 138, 142), the 'atypical' forms of work made employees scatter and not tied to a single employer, and made their unionisation more difficult. At the same time, it increased the costs of union membership for the

individual worker due to the growing risks or threats posed by management to their employment.

An expression of the new approach of management towards employees and to industrial relations in general was, according to a union representative, that firms started to improve working conditions by eliminating aspects, such as unhealthy environments, that could trigger workers' unrest. By acting this way, they succeeded in avoiding unions from becoming involved in firms' internal issues (Respondent 10). Moreover, according to the selected employers' association representatives and to a union director, managers increasingly turned their attention to the improvement of the image of the enterprise before employees (Respondents 6, 7, 10). They affirmed that employers aimed at showing their staff that internal problems could be solved more effectively within the enterprises without union involvement.

It appears that managerial changes, the increase of unemployment, and the economic recession of the late eighties and early nineties, that made employers more reluctant to make concessions (Respondent 7), led many unions to view the Labour Courts as a shield to protect the interests of employees. It is likely that in face of the decline of their bargaining power, they applied to the tribunals for arbitration.

Summing up, in this section I have argued that the decline of the economic conditions undermined the opportunities, created by the political liberalisation process, for the development of independent bargaining. Although the decline of real wages, to some extent, favoured a slight increase of direct negotiations, at the same time it led to the increase of arbitration. I suggest that the growth of the proportion of higher levels of Labour Court involvement in the resolution of labour disputes through arbitration is also due to the decline of union strength. This fact was provoked by unfavourable economic

conditions (the increase of inflation rates and of unemployment) on the one hand, and by the changes introduced by firms in work organisation, on the other.

Conclusions

In this chapter I have shown that during the eighties unions and management became more autonomous in relation to the state and were able to develop collective bargaining relationships in spite of a measure of involvement of the labour tribunals. I assume that the parties became more autonomous because they managed to increase their capacity to act as interest groups, and hence to represent the interests of their members. In this sense, a considerable change in the patterns of union-management relationships developed post 1978. As we have seen, in contrast to the past, in the eighties the interest associations of employers and employees no longer refrained from negotiations and from undertaking industrial actions.

I have also shown in this chapter that the involvement of the Labour Courts did not significantly undermine the authority of the actors in the resolution of their disputes. Instead of hindering negotiations, as is implied in the literature (Córdova 1989, Neto 1991, 1992, 1994b), I have shown that the tribunals encouraged the development of this practice at least to some extent. The development of collective bargaining relationships is also indicated by the fact that the interest associations of employers and employees became more responsive to the interest of their members, and by the fact that they became more effective in negotiations.

The development of collective bargaining relationships indicates that new forms of social relations developed in industrial relations. This indicates, in turn, that the form of regulation of industrial relations experienced significant changes during the eighties. Thus, although unions and management remained, to some extent, dependent on the Labour Courts, there is evidence that the nature of the industrial relations system

changed, at least to some extent. In my view, these changing patterns of social relations confirm the state corporatism-is-dead hypothesis. I also conclude that the corporatism-is-in-transition hypothesis is not confirmed, since there is no evidence of a continuous growth of autonomy of the parties to the state during the period.

The form of the relationship of the parties, expressed in their behaviour in dispute resolutions, which, in turn, is expressed in the procedures they have adopted to solve their conflicts, was considerably affected by changes in the broader environment. I have shown that, although creating the opportunities for the development of independent negotiations, the positive effects of the political and legal environment were undermined, to some extent, by the unfavourable economic context. A further progress of independent bargaining was hindered by the decline of union bargaining power due to the rise of unemployment and of hyperinflation. Moreover, I also concluded that union strength was negatively affected by organisational and managerial changes that were introduced in the firms, especially in the final years of the period under consideration.

The next chapter is concerned with assessing the extent of the changes in the regulation of industrial relations by studying the role of collective bargaining in establishing employment rules. I study the issue by analysing the evolution of the subjects of the collective agreements during the eighties.

CHAPTER EIGHT

THE EVOLUTION OF THE SCOPE OF BARGAINING IN THE ENGINEERING INDUSTRY OF GREATER PORTO ALEGRE 1978-1991

In the preceding chapter we have seen that during the eighties collective bargaining relationships developed in Rio Grande do Sul between 1978 and 1991. In this chapter I assess whether, and to what extent, industrial relations were regulated through collective bargaining during that period. I also evaluate whether, and to what extent, the changes in the broader environment affected the evolution of the bargaining scope.

I assume that changes in the behaviour of unions and management are expressed in alterations in the subject matter of the collective agreements, the bargaining scope. I also posit that changes in the bargaining scope will be expressed in the number and type of collective agreement regulations. I finally assume that if there is evidence of a break away from the patterns of job regulation (expressed in characteristics of the bargaining scope) prevailing in the period prior to 1978, I can confirm the corporatism-is-dead hypothesis. If there is evidence that features of the past still prevail, the corporatism-is-not-dead hypothesis is confirmed. Finally, if there is evidence of a continuous development of collective bargaining to the detriment of the role of the statutory regulation, then the corporatism-is-in-transition hypothesis is confirmed.

The conclusions of the study of the evolution of the bargaining scope were drawn from the analysis of a sample of agreements established between 1978 and 1991 in the engineering industry segment of the Greater Porto Alegre Region covered by the Engineering Workers Trade Union of Porto Alegre and by the Engineering Workers

Trade Union of Canoas. In the first part of the chapter (section 8.1) I describe the evolution of the content of bargaining in the subject areas I have identified. In section 8.2 I make a statistical analysis of the evolution of the amount of issues negotiated per year by the parties and verify the impact of the changes in the political environment and the economic context on the outcomes of the negotiations. Finally, in section 8.4 I discuss the results of the data analysis.

8.1 The development of the bargaining scope

In the four separate subsections that follow I present an overview of the evolution of the content of the collective agreements established in the selected economic sector between 1978 and 1991. I assess to what extent the bargaining scope increased in the selected economic sector by analysing the range of issues subject to union-management joint regulation during the period.

As a reminder to the reader, two types of indicators measure developments in the bargaining scope. The first is the range of issues covered by the collective bargaining agreements. This is defined as the type of aspects (or subjects) of the employment relationship the agreements regulate. For further details, see Chapter Six. The second is the number of issues regulated by the agreements. If there is evidence of a significant expansion both of the range of issues and of the number of issues of the agreements, then the state corporatism-is-dead hypothesis is confirmed. Conversely, lack of developments in the scope of bargaining indicates lack of changes in rule making and, hence, confirms the corporatism-is-not-dead hypothesis. Finally, if there is evidence of a continuous growth of the scope of collective bargaining in detriment to the statutory regulations, then the corporatism-is-in-transition hypothesis will be confirmed.

From the selected agreements (and Labour Court awards) I have identified 124 different clauses. These agreement provisions are the basic units upon which the

analysis of the bargaining scope is made. The amount of clauses I distinguish here does not correspond to the actual amount of original clauses of the agreements. The provisions laid down in the collective agreements were frequently written in a way that made it impossible to compare like with like. The original clauses were in fact, in many cases, a compound of rules covering different kinds of issues. Frequently, the contents of a single clause could be broken into different types of issues. In other cases, the contents of more than one clause could be combined in a single rule. Therefore, in order to make things become comparable, I had to rearrange the content of the original clauses distinguishing the different kinds of subject the original clauses regulate. Thus, each distinctive rule I identified in the original agreements became a distinctive clause. This is why the amount of clauses in the agreements is not comparable to the amount of clauses I distinguish in this research.

The analysis of the evolution of the range of issues that follows below is focused on the evolution of the types of subtopics, topics and subject area rather than on the distinct clauses. I assume that the subtopics, topics and subject areas express more precisely changes in the nature of the scope through time. The distinctive clauses may provide for details of already regulated subjects and, thus, may fall short from indicating changes in the range of issues. The first subject area here analysed is “terms of employment”. In the following subsections the evolution of “conditions of work”, “labour-management relations” and, finally, “trade union organisation” will be studied. A broad overview of the evolution of the scope is shown in Table 26.

8.1.1 Terms of Employment

“Terms of employment” is the subject area that gathers the largest amount of clauses. It includes 56 different types of items, which corresponds to around 45 per cent of the total amount of items found in the sample of agreements. Around 89 percent of

this amount (which corresponds to 50 clauses) are 'new clauses'. This fact indicates that a considerable enlargement of the scope, in this subject area, took place between 1978 and 1991. It is important to say that the whole amount of clauses of the area is superior to the amount of agreement items existent in 1991. This is because about one third of the amount of clauses in this area was discontinued during the period; these are the 'dead clauses'.

The new topics and subtopics indicate any broadening of the range of issues regulated by the collective agreements more clearly than the amount of clauses. It indicates the changes of the subject of the parties' dealings through time. The different subjects correspond to new rights employees managed to win through collective bargaining, although this might not always be the case. As we can see from the analysis of the collective agreements, some of the provisions favour employers rather than workers.

In 1978 the agreements of the selected economic sector included items regulating wages, hours of work and paid leave. In the wages topic (Table 21) we can find provisions regulating three types of subjects (here referred to as sub-topics), namely: 'Pay', 'Wage Floor', and 'Additional Payments'. In the 'Pay' sub-topic, the 'annual wage adjustment rate' was the central issue to almost all agreements. This rule supplemented the wage adjustments established by the law. The same subtopic also includes a provision regulating the 'method to compute the value of individual wages'. From 1979 onwards a clause providing for 'interim wage adjustments' was also included in this subtopic. The second sub-topic, 'Wage Floor', included a clause providing for the 'remuneration of substitute workers', which was linked in the following years to the 'value of the wage floor' established ever since 1979. In the 'Additional Payments' subtopic the agreements included a clause providing for

‘additional payment according to the length of service’. This rule established the right of every employee covered by the agreement to have an extra permanent increase every year (or every two or five years) employed in the same firm. Other issues, included in this subtopic in the mid-eighties, were the clauses providing for ‘additional payment for unsafe working conditions’, for ‘incentive pay’, and a provision establishing ‘extra payment for emergency work’. In the end of the period the subtopic was further enlarged with the introduction both of a clause providing for ‘bonuses’, and of another establishing that the ‘additional payments were to be considered permanent’.

Table 21: Subtopics and clauses concerning ‘Wages’

Sub-topics	Clauses
Pay	Annual wage adjustment rates
	Interim wage adjustment
	Method to compute the value of individual wages
Wage floor	Value of the wage floor
	Remuneration of substitute workers
Overtime	Payment of overtime hours
Additional payments	Additional payments considered permanent
	Additional payment according to the length of service
	Extra payment for emergency work
	Bonuses
	Additional payment for unsafe working conditions
Equal pay	Incentive pay
	Same job same wage
Other	Firm not obliged to pay wage increase fixed in agreement if it has no economic conditions to support it
	Payment of breaks
	Time schedule for the payment of wages
	Anticipation of payment of the legal thirteenth annual wage
	Payment of daily expenses
	Obligation to pay wages

Source: sample of agreements

Sample size (n) = 81 agreements.

The only hours of work subtopic existent in 1978 was ‘Working Hours’ (Table 22). The oldest clause under this heading that year provided for ‘weekly time schedule and schemes of compensation of working hours’. This is an aspect that was required by law to be negotiated by the parties in case the firms were proposing alternative

arrangements to those established in the CLT (Articles 58-59). During the period new rules concerning this subject were introduced. One of the provisions provided for 'breaks', which was included in 1981, established the shortening of lunch time breaks. This type of regulation was also required, by law, to be negotiated between the parties in case the firms wished to establish alternative arrangements in relation to the legal standards set in the CLT (Article 71). Another clause here included provided for rules to be followed by management in cases of 'late arrivals at work'. This item only appeared once (in 1985) in a firm-level agreement.

Table 22: Subtopics and clauses concerning 'Hours of Work'

Sub-topics	Clauses
Working Hours	Weekly time schedule and schemes of compensation of working hours
	Breaks
	Late arrivals at work
Reduction of the weekly working hours	Weekly working hours
Unpaid leave	Time to get documents
	Time to take children or wife to hospital
	Leave for workers' representatives
Other hours of work	Costs derived from interruption of working hours caused by the enterprise were not to be discounted from wages
	Compensation of working hours lost due to official holidays
	Changes of work teams

Source: sample of settlements
Sample size (n) = 81 agreements.

Finally, in the paid leave topic we could find the 'Leave for Students'-related issues (Table 23). This specific clause established that 'students were allowed to attend exams' or to have a leave to matriculate in a school without wage reduction. This clause introduced an aspect not under the umbrella of the law.

Table 23: Sub-topics and clauses concerning 'Paid Leave'

Sub-topics	Clauses
Holidays	Annual vacations
	Paid holidays to employees on sick leave
	Annual vacations to new employees
	Anticipation of the payment of annual holidays
Seeking Alternative Work	Time off to seek a new job
Leave For Students	Students allowed to attend exams or to matriculate
Other Paid Leave	Women employees have the right to take their children to the doctor
	Leave for marriage
	Leave in case of death of relative or when the worker is witness in a jury
	Leave in case of abortion
	Leave to fetch payment in the bank
	Leave for blood donation

Source: sample of settlements

Sample size (n) = 81 agreements.

The process of enlargement of the bargaining scope in the “terms of employment” subject area started in 1979 with the introduction of ‘Holidays’ regulations in the paid leave topic. The agreements included a rule establishing the criteria that managers were to observe when computing the number of days of the legal ‘annual vacation’. The item improved the terms of the law by establishing that the annual leave was to start on the first normal working day, after weekends or holidays. The CLT established the right of all employees to enjoy an annual 30 days paid holidays (Article 130) in general terms. Other agreement items were gathered in this subtopic. This is the case of a clause providing for ‘annual vacations of new employees’. This provision established that the vacations of new employees were to be proportional to the period they had been working in the firm. This arrangement also improved the conditions of the CLT (Article 146). The collective agreements also included a rule establishing the ‘anticipation of the payment of the annual holidays’. This item improved the terms of article 146 of the CLT. A final clause included in the subtopic in

the mid-eighties was ‘paid holidays to employees on sick leave’. This rule ameliorated the standards established in article 130 of the CLT.

In the year of 1980 the most significant changes in the “terms of employment” subject area of the period occurred, namely the introduction of new types of regulations concerning social security and security of employment related issues. In addition to these major changes, the same broader subject area was enlarged with the introduction of two new wage subtopics and one new paid leave subtopic.

The specific social security-related issue (Table 24) provided for the ‘continuity of payment of the legal thirteenth annual wage to employees on sick leave’. This clause was gathered in the ‘Sickness’ subtopic. It improved the terms of the law (Law 4090, of 13/07/1962) by requiring employers to pay the integral thirteenth annual wage to employees on sick leave for a period longer than the legal six months. This subtopic was further enlarged in the late eighties with the introduction of another agreement item that provided for ‘supplementary monetary sickness aid’.

Table 24: Sub-topics and clauses concerning ‘Social Security’

Sub-topics	Clauses
Bereavement	Supplementary monetary aid for funeral expenses
Retirement	Supplementary monetary retirement aid
Sickness	Continuity of payment of the thirteenth annual wage to employees on sick leave
	Supplementary monetary sickness aid
Unemployment	Payment of the monthly instalments of the legal unemployment fund

Source: sample of agreements

Sample size (n) = 81 agreements.

The security of employment topic (Table 25) included two different types of issues that were gathered under two distinctive subjects: ‘No Dismissal’ and ‘Redundancy Payment’. The corresponding agreement regulations of the ‘No Dismissal’ subtopic established that ‘injured workers’, ‘pregnant employees’ and ‘workers engaged

in the military service' were protected against lay-offs. In 1984 the rule was extended to 'workers that would be retiring soon'. The 'no dismissal' rule for pregnant employees became a legal provision in 1988 (Article Seven, item XVIII; Article Ten, item II, b of the 1988 Constitution). Afterwards, this type of clauses continued to remain in the agreements, however the legal standards were improved by lengthening the period of job stability. The law also protected employees in the military service, however, the agreement provision ameliorates the terms of the legal regulations (Article 472 of the CLT).

Table 25: Sub-topics and clauses concerning 'Security of Employment'

Sub-topics	Clauses
No Dismissal	Of injured workers
	Pregnant employees
	Workers that will be retiring soon
	Workers engaged in the military service
Redundancy Payment	Indemnity payments for workers in period of notice
	Supplementary payment in case of dismissal of employees with disabilities
	Supplementary and temporary payment in case of dismissals of employees fired without just cause
	The criteria to be observed to fix the day of dismissal
Period Of Notice	For employees over 40 years old and employed more than five years at the enterprise, the period of notice will be 60 days
Dismissal Of Pregnant Employees	Employers may dismiss pregnant employees

Source: sample of agreements

Sample size (n) = 81 agreements.

The second security of employment new subtopic, 'Redundancy Payment', included two new rules, one providing for 'indemnity payment for workers in period of notice' and another providing for 'criteria for managers to fix the day of dismissals'. In both cases the agreement provisions introduced improvement to the terms fixed in the legislation (Law 6708, of 30/10/1979, Article 9; and Decree Law 2065, of 1983, Article 38). In the same subtopic were introduced two new clauses providing for

'supplementary temporary pay for workers fired without just cause' and for 'supplementary dismissal pay for workers with disabilities as a result of work accidents'. The legislation granted supplementary payment in this type of dismissal (Law 6708, of 30/10/1979, Article 9; and Decree Law 2065, of 1983, Article 38), however the agreement provision improved the legal rules by covering this distinctive group of workers.

The two new subtopics introduced in the wages topic were the following: 'Overtime' and 'Other' wage issues. The specific clause in the 'Overtime' subtopic provided for the 'supplementary payment of the working hours' during normal weekdays, as well as on Sundays and holidays, improving the legal standards (Articles 59 and 61 of the CLT, and Law 605 of 1949, article 9). In the 'Other' wage issue was included a clause establishing that the 'firm was not obliged to pay the agreed wage adjustment if it could not support it'. A number of other clauses were gathered under this subtopic during the eighties. They provided for the following miscellaneous issues: 'payment of breaks'; 'obligation to pay wages'; employers were to pay 'daily expenses if employees were travelling for the firm'; 'anticipation of payment of the thirteenth annual wage'; and 'time schedule for the payment of wages'. Finally, the paid leave topic was enlarged with the inclusion of the 'Seeking Alternative Work' subtopic. It included a clause establishing the right of employees in period of notice to have 'time off to seek a new job'. The negotiated rule improved the terms stipulated in the CLT (Article 488).

In the year of 1981 the rhythm of innovation of the bargaining scope in the "terms of employment" area declined in relation to the previous year. We can see in Table 26 that three new subtopics were added to the already existing ones. In the wages topic the 'Equal Pay' rule was included. The specific regulation established the right of

employees to be paid the 'same wage for the same job'. This clause replicates a rule established in the CLT (Articles 5 and 461). In the hours of work topic the 'Other Hours Of Work' subtopic was inserted. The correspondent agreement items provided for the 'compensation of working hours lost due to official holidays' and for rules to be observed by managers when determining 'changes of work teams', in particular the shift from night work to day work. The last clause established improvements in the general regulation of the CLT (Article 468). In the same subtopic another clause was introduced in 1988 stipulating that the costs derived from the 'interruption of working hours caused by the enterprise should not be discounted from the wages of employees'. Finally, in the security of employment topic a subtopic named 'Dismissal Of Pregnant Employees' was included. It gathered only one clause that appeared between 1981 and 1987. The rule was favourable to employers because it allowed managers to 'dismiss pregnant employees'.

The bargaining scope almost stopped growing between 1982 and 1984. In the year of 1983 the only change of that phase introduced was an 'Unemployment' related rule in the social security topic. The specific regulation required the firms to pay the 'monthly instalment of the FGTS', the legal length of service guarantee fund. This agreement item was a replication of a legal rule (Law 5107, of 13/09/1966).

Between 1985 and 1988 a new phase of enlargement of the "terms of employment" subject area took place. In 1985 issues related to the 'Other Paid Leave' were introduced, namely, the 'women's right to take their children to the doctor' and 'paid leave in case of death of relative or in case of being summoned to be witness in a jury'. The other regulations that were introduced in the same subtopic in the following years were 'leave to fetch payment', 'leave for blood donation', 'leave in case of

abortion' and 'leave for marriage'. The last clause improved the terms of the law by extending the leave for a period longer than that established in the CLT (Article 473).

In 1986 the bargaining scope expanded in the hours of work and in the security of employment topics. The first included a regulation related to the 'Reduction Of Weekly Working Hours'. The specific rule provided for the diminution of hours of work, from the legal 48 hours to 45 or 44 hours, without wage reduction. After the promulgation of the 1988 Constitution, that granted a working hours reduction from 48 to 44 hours per week, the issue was naturally dropped from the settlements. The security of employment topic was enlarged with the introduction of the 'Period of Notice' subtopic. It included a rule stipulating that 'employees over 40 years old and employed more than five years at the enterprise were granted a period of notice of 60 days' rather than the 30-day notice established in the CLT (Article 487). This rule appeared in 1986 only.

Between 1987 and 1988, three new subtopics were added to the "terms of employment" subject area. In the social security topic were included rules providing for a 'supplementary monetary aid for funeral expenses' (the 'Bereavement' subtopic) and for 'supplementary monetary aid' in case of retirement (the 'Retirement' subtopic). The last new subtopic included in this subject area during the period was 'Unpaid Leave' in the hours of work topic. The specific regulations were the following: 'time to get documents', 'time to take children or the wife to the hospital' and 'leave for workers' representatives to participate in negotiation commissions'. In the final years of the period no new types of issues were introduced in the "terms of employment" subject area.

Summing up, we can see that "terms of employment" subject area considerably developed during the period. There were two waves of increase of the scope. The first

and most significant wave of development took place between 1979 and 1981. The year of 1980 was particularly important since two entirely new types of agreement regulations were introduced, namely, social security and security of employment related issues. The second wave of development of the scope in this area took place between 1985 and 1988. This is expressed with the introduction of six new types of regulations (or subtopics) to the existent topics. The period between these two phases and the final years of the period (from 1989 onwards) is characterised by a lack of development of the scope. This is indicated not only by the lack of regulations of a new type, but also by the death of five subtopics.

8.1.2 Conditions of Work

“Conditions of work” is the second subject area here identified. It includes twenty clauses, which corresponds to around 16 per cent of the total amount of clauses. We can see in Table 26 that an enlargement of content of collective bargaining job regulation occurred during the period, especially from 1985 onwards. The most expressive indication of development of the scope of bargaining in this subject area is the introduction, during the period, of two new types of agreement regulations – in addition to the existing welfare related issues (Table 27) -, namely prevention of accidents and working environment (Table 28).

Examining Table 26 we can see that, in 1978, only one welfare regulation was found in the collective agreements of the selected economic sector. It included then the ‘Uniforms’ subtopic that gathered a provision establishing that ‘uniforms were to be provided by the firms without charge’. The clause replicates the terms set by the law (Article 458 of the CLT).

Table 26: Evolution of the Bargaining Scope at the multi-employer level and at the firm- level, 1978-1991

CLAUSES	Year when subject was negotiated													
	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
1. TERMS OF EMPLOYMENT														
1.1 Wages														
Pay	X	Δx	X	Δx	X	X	X	Δx	Δx	Δx	Δx	X	Δx	Δx
Wage floor	X	X	X	Δx	X	X	X	Δx	Δx	X	X	X	Δx	X
Overtime			X	X	X	X	X	Δx	Δx	X	Δx	X	X	X
Additional payments	X	Δx	X	Δx	X	X	X	Δx	Δx	X	X	X	X	Δx
Equal pay				X	X	X	X	Δ	X					
Other			X	X	X	X	Δx	Δx	Δx	Δx				
1.2 Hours of Work														
Working hours	X	Δx	X	Δx	X	X	X	Δx	Δx	Δx	Δx	X	Δx	Δx
Reduction working hours									Δx	Δx	Δx			
Unpaid leave											X	X	X	X
Other				X	X	X	X	X	X	X	X	X	X	X
1.3 Paid Leave														
Holidays		Δ		Δx	X	X	Δx	X	Δx	X	X	X	Δx	X
Seeking alternative work			X	X	X	X	X	X	X	X	X	X	X	X
Leave for students	X	X	X	X	X	X	X	X	Δx	X	X	X	X	X
Other paid leave								X	X	X	X	X	X	X
1.4 Social Security														
Bereavement										X	X	X	X	X
Retirement											X	X	X	X
Sickness			X	X	X	X	X	X	X	X	X	X	X	X
Unemployment						X	Δx	X	Δ	X	X	X	X	X
1.5 Security of Employment														
No dismissal			X	X	X	X	X	X	Δx	Δx	X	X	X	X
Redundancy payment			X	X	X	X	Δx	X	Δx	X	X	X	Δx	Δx
Period of notice									Δ					
Dismissal of pregnant employees				X	X	X	X	X	X	X				

CLAUSES	Year when subject was negotiated													
	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
2 CONDITIONS OF WORK														
2.1 Working Environment														
Risk identification								Δ	Δ					
Elimination of risks									Δ					
Other								Δ						
2.2 Prevention of Accidents														
Safety committees							X	Δx	X	Δx	Δx	X	X	X
Protection against accidents			X	X	X	X	X	Δx	X	Δx	X	X	X	X
2.3 Welfare														
Uniforms	X		X	X	X	X	X	X	X	X	X	X	X	X
Facilities										Δ	Δ			X
Crèches								X						
Health care								Δ			X	X	X	X
Food and transport				X	X		X	Δx	Δx	X	X	X	X	X
3. LABOUR-MANAGEMENT RELATIONS														
3.1 Collective Disputes														
Interpretation								Δ	Δ		Δ		Δ	Δ
Peace provisions							Δ	X						
Conflict resolution							Δ	Δ	Δx	Δ			Δx	Δx
3.2 Administrative Issues														
Certificates, deductions		X	X	X	X	X	X	Δx	X	X	X	X	X	X
Working arrangements		Δ		Δ				Δ						
Method of payment								Δ	Δ	Δx	X	X	X	X
Other issues			X	X	X	X	X	X	X	X	X	X	X	X
3.3 Training and Recruitment														
Training		X	X	X	X	X	X	X	X	Δx	X	X	X	X
Recruitment				X	X	X	X				X	X	X	X
3.4 Consultation							Δ							

CLAUSES	Year when subject was negotiated													
	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
4. TRADE UNION ORGANIZATION														
4.1 Dues check off														
Interest association dues								Δx		X	X	X	X	X
Social tax	X	Δx	X	Δx	X	X	X	X	Δx	X	X	X	X	X
4.2 Union Organization														
Factory committees							Δ	Δ	Δ		Δ			
Announcements					X	X	X	X	X		X	X		X
Leave for workers' representatives							Δ							
Stability for workers' representatives		Δ	X	Δx	X	X	Δx	X	Δx	X	X	X	X	X
Information								X	X	X	X	X	X	X
Union power							Δ	Δ	Δx		X	X	X	X
Other		Δ		Δ					Δ					

Source: sample of agreements

Sample size (n) = 81 agreements.

Codes: x : appears in multi-employer level agreements

Δ: appears in firm level agreements

Δx: appears in firm level and multi-employer level agreements

A major enlargement of the scope in this broader subject area occurred in 1980 with the introduction of prevention of accidents regulations. The rules here included were related to 'Protection Against Accidents'. The specific agreement provision demanded employers provide for 'individual safety equipment', improving the terms set in the legal regulations (Articles 166 and 191, item II, of the CLT). Another regulation of the same type was introduced in this subtopic in the mid eighties, providing for 'safety measures' the firms were to introduce. This appeared in the bargaining scope in 1985 and in 1991 only.

Table 27: Sub-topic and clauses concerning 'Welfare'

Sub-topics	Clauses
Uniforms	Uniforms were to be provided for by employers without charge
Food And Transport	Transport for workers
	Lunches for employees that work beyond normal working hours
	Prices of food and transport
Crèches	Setting up of crèches
Health Care	Setting up of health care services
	Health care to the husband of employees
Facilities	Improvements in the restaurant
	Improvements in the dressing room
	Installation of drinking fountain
	Installation of showers
	Drinking water
	Sanitary towels for employees

Source: sample of agreements

Sample size (n) = 81 agreements.

In 1981 another enlargement of the scope in this subject area occurred with the introduction of 'Food and Transport' related issues in the welfare topic. The oldest regulation in this subtopic was a clause providing for the 'prices of food and transport' when supplied by the firms. This is an item that, apart from 1983, remained in the bargaining scope of the selected economic sector until the end of the time series. The rest of the clauses this subtopic gathered were established in 1985 and 1986 only. One provision required firms to provide for the 'transport of workers' and another required

employers to 'provide for lunches' of employees that work beyond normal working hours.

Between 1982 and 1983 no innovation of the scope of bargaining in the "conditions of work" area occurred. In 1984 an enlargement of the subject of the prevention of accidents topic took place with the introduction of issues related to 'Safety Committees'. The subtopic included a provision regulating the 'election of members of the CIPAs', the legal work place safety commission. It improved the terms fixed in the CLT (Articles 163-165; and Governmental Order 3214 of 1978). Another clause introduced in this subtopic (in 1985 only) provided for the 'selection and training of work safety supervisors'. This item also improved the terms fixed in the legislation (Governmental Order 4314, NR 27).

Table 28: Sub-topics and clauses concerned with 'Working Environment' and 'Prevention of Accidents'

Sub-topics	Clauses
Working Environment	
Risk Identification	Inspections of safety conditions of the workplace
Elimination Of Risks	Elimination or reduction of risks in the working environment
Other	Smoking in the workplace
Prevention Of Accidents	
Safety Committees	Election of members of the CIPAs
	Selection and training of work safety supervisors
Protection Against Accidents	Safety measures
	Individual safety equipment

Source: sample of agreements

Sample size (n) = 81 agreements.

The "conditions of work" subject area considerably developed between 1985 and 1987. The year 1985 was the most important of that phase. In this year new types of regulations were gathered under the working environment topic. This type of regulations appeared only between 1985 and 1986 in firm-level arrangements. One of the aspects introduced in the agreements was a clause providing for 'Risk Identification'. The respective agreement item of this subtopic determined the execution

of 'inspection of safety conditions of the workplace'. Another type of rule concerning this subject area was 'Elimination of Risks', which included a clause requiring employers to 'eliminate or reduce risks' in the working environment. Finally, in the 'Other' subtopic, a clause allowing workers to 'smoke in the workplace' was included. All these issues were matters already under the umbrella of the law (Article 193 of the CLT, and Governmental Order 3,214 of 1978).

In addition to working environment-related issues, the scope in the "conditions of work" subject area was enlarged with the introduction, in 1985, of two new subtopics in the welfare topic. One of the types of issues was concerned with 'Crèches' and the other with 'Health Care'. The first subtopic included a clause requiring employers to set up nurseries. The latter is an issue already under the umbrella of the labour legislation (Articles 389, 397, and 399-400 of the CLT). This type of provision appeared only in 1985 in a multi-employer level agreement. The second subtopic, 'Health Care', included the following provisions: 'setting up of health care services' in the firm; and 'health care assistance extended to the husbands of women employees'.

In 1986 another enlargement of the bargaining scope of this subject area took place with the introduction of the 'Elimination of Risks' related clause in the working environment topic. The rule appeared only once in the selected economic sector during the period. In 1987 the "conditions of work" area experienced its last enlargement of the period with the introduction of regulations related to 'Facilities' in the welfare topic. In that year two firm-level provisions were established, both demanding the firm to 'make improvements in the restaurant', and in the 'dressing room'. These issues, which appeared only once, were already under the umbrella of the law (Governmental Order 3214 of 1978, NR 24, item III; and, article 200, item VII, of the CLT, and in the Governmental Order 3214, of 1978, NR 24 item II). In 1988 two new clauses were

introduced in the 'Facilities' subtopic. One of the provisions required a firm to install a 'drinking fountain', and another required the 'installation of showers'. As in the former case, these norms were already regulated by the labour legislation – the first in the CLT, article 200, item VII and in the Governmental Order 3214, of 1978, NR 24, item VI; the second in the CLT, article 200, item VII and in the Governmental Order 3214, of 1978, NR 24, item I. The remaining two clauses gathered under this topic were fixed in 1991. One of the provisions required firms provide for 'drinking water', which simply reproduced article 200, item VII of the CLT, and the second required firms to provide for 'sanitary towels' for employees.

Summing up, we have seen that the scope of "conditions of work" area considerably enlarged during the period in relation to 1978. This is indicated by the introduction of two entirely new types of regulations in the scope of bargaining, namely prevention of accidents and working environment. Apart from this, a development of the content of the subject matter of agreement regulations occurred within the existing welfare topic. One of the features of this condition of work subject area is that the widening of the range of issues took place in the mid-eighties. Another distinctive feature was the high rate of extinction of clauses in relation to what occurred in the other subject areas. Around 66 percent of all new clauses and around 44 per cent of all new subtopics were discontinued during the period. Ten out of the sixteen new agreement items introduced during the second half of the period were exclusively established in firm-level arrangements. All the firm-level regulations disappeared from the scope of bargaining.

8.1.3 Labour-Management Relations

“Labour-management relations” is the third subject area here identified. Agreement regulations related to this type of subject were included, for the first time, in 1979. This fact was a major development of the scope of bargaining of the period. This broader subject area gathers 33 clauses, which corresponds to 27 per cent of the whole amount of clauses. These provisions were gathered under four distinctive topics: collective disputes, administrative issues, training and recruitment and consultation.

The first regulations concerning this subject area that appeared during the period were administrative issues (Table 29) and training and recruitment (Table 30). The oldest subtopics concerning administrative issues were ‘Certificates and Deductions’ and ‘Working Arrangements’. The ‘Certificates and Deductions’ subtopic includes clauses requiring employers to fill out employees’ ‘legal job card’, a provision demanding managers to provide for ‘receipts of payments’. It also included provision providing for: the specification of ‘social security and other legal deductions from wages’; for updated copies of the ‘balance of the employee’s legal bank account of the length of service fund’ (FGTS) to be handed to employees; for copies of the ‘legal health examination certificate’; and for certificates with the ‘job description’. These rules urged firms to comply with the law, by providing information on details of the individual employment contract. In addition, they were intended to prevent frauds and to ameliorate the legal regulations established in articles 29, 462, 464 of the CLT, and in Decree 59820, 1966, article 14. Another agreement item here included required employers to provide a certificate to laid-off workers specifying the ‘reason for dismissal’. The clause was meant to restrain or moderate turn over rates. A final clause within this sub-topic establishes rules for managers to consider ‘health certificates to justify absence of employees from work’ valid.

‘Working Arrangements’ appeared exclusively in sporadic firm-level arrangements in 1979, in 1981 and in 1985. The most frequently negotiated issue was a clause regulating ‘promotions’. The other item within the subtopic - found in one agreement in 1985 only – established that employees accept the structure of wages of the firm.

Table 29: Sub-topics and clauses concerning 3.2 ‘Administrative Issues’

Sub-topic	Clauses
Certificates and deductions	Filling out of legal job card
	Receipts of payment
	Specification of social security and other legal deductions from wages
	Balance of the employee’s legal bank account of the FGTS
	Certificates of legal health examination
	Certificates with job description
	Reason for dismissal
Working Arrangements	Validity of health certificates to justify absence of employees from work
	Promotions
Method Of Payment	Employees declare that they accept the structure of wages of the firm
	Payments should be made in cash on Friday afternoons
Other Issues	Care with uniforms and equipment
	Managers were to give notice to employees in advance if and when the firm was going to move to another location
	Liberation of employees from marking time on the time clock during lunch breaks
	In case of changes in the legislation, the more favourable conditions for employees were to prevail

Source: sample of agreements

Sample size (n) = 81 agreements.

Regulations concerning training and recruitment were also introduced in 1979. The oldest subtopic in this subject area was ‘training’, which included, since 1979, a clause determining that the firms were to ‘pay the fees of workers attending specialised courses’. The agreement provision improves the terms established in the CLT (Article 80). The legal regulation specified the wages that were to be paid to apprentices, while the agreement innovates by establishing the payment of the fees. Another clause, also

established in the same year, provided for ‘monetary aid for students’. This is an aspect that was not under the umbrella of the law. This subtopic was enlarged in 1981 with the introduction of a rule stipulating, rather vaguely, that the firms were to be committed with the professional improvement of employees. This regulation was negotiated between 1981 and 1984 only.

Table 30: Sub-topics and clauses concerning ‘Training, Recruitment’ and ‘Consultation’

Sub-topic	Clauses
Training	Monetary aid for students
	Payment of the fees of workers that are attending specialised courses
	Commitment of the enterprise with professional improvement of employees
Recruitment	Admission tests
	Experimental contract
	Employers were to recruit employees over 40
Consultation	Managers were to take into consider suggestions of workers

Source: sample of agreements

Sample size (n) = 81 agreements.

The “labour-management relations” area was enlarged with the introduction, in the agreements of the selected economic sector, of ‘Other Issues’, in the administrative issues topic, in 1980. This subtopic includes miscellaneous aspects. The most long lasting clause stipulated that employees should demonstrate ‘care with uniforms and equipment’. This provision was actually a replication of a legal norm (Governmental Order 3214, 1978, NR 6, item 7). Three new clauses were included in the same subtopic in 1985, 1988 and in 1991. They established, first, that managers were to give ‘notice in advance to employees in case the enterprise was moving to another location’. The second clause established that ‘in case the labour legislation was amended, the more favourable conditions for employees (established either in the law or in the agreement) were to prevail’. Finally, the third clause established the ‘liberation of employees to mark the time on the time clock during lunch breaks’. The first clause was a replication

of the law (Articles 469-470 of the CLT), while the third made the application of the legal rule more flexible (Article 74 of the CLT; and Governmental Order 3,082, of 1984).

In 1981 the “labour-management relations” subject area was further enlarged with the introduction of regulations concerning ‘Recruitment’ of employees. These issues were negotiated between 1981 and 1984 and between 1988 and 1991 only. The first clause regulating this type of matter recommended employers ‘to recruit employees over 40 years old’. This clause was discontinued in 1985. In 1988 two new issues were included in the same subtopic. The first provided for ‘admission tests’ and the second provided for the regulation of the ‘experimental contract’. The second was an issue already regulated by the law (Article 443 of the CLT), however the agreement provision made the legal rule more flexible.

Between 1982 and 1983 no new types of issues were introduced in this subject area. A new phase of development of the scope in this area occurred between 1984 and 1985. After that, the development of the scope in this subject area came to a halt.

Major developments in this area took place in 1984. Regulations concerning two entirely new types of subjects were introduced in the agreements, namely consultation (Table 30) and collective disputes (Table 31). The first subject is embodied in a general statement asserting the ‘promise of managers to take into consideration the suggestions of workers’. This provision appeared only once in a firm-level settlement. Collective disputes regulations appeared occasionally in firm- and multi-employer levels of the negotiations. The subtopics included in 1984 were ‘Conflict Resolution’ and ‘Peace Provisions’. In the ‘Conflict Resolution’ subtopic, one of the clauses established a ‘strike threat’. It stated that employees would refrain from striking if managers kept their promises. ‘Payment of days lost in strikes’ and ‘no dismissal of strikers’ were the

other conditions won by workers in 1985 and 1986, respectively. In other agreements, conditions that were not so favourable to employees were established. This was the case of ‘no payment of days lost in strikes’ and ‘compensation of days lost in strikes’, which were established in 1986, 1987 and 1990. The ‘Conflict Resolution’ subtopic included, furthermore, a clause determining the ‘cessation of a lawsuit’, and another establishing that the conflicts that might arise in the firms were to be ‘solved by the Labour Courts’.

The ‘Peace Provisions’ sub-topic gathered a clause establishing, rather vaguely, that the parties ‘committed themselves to being open to dialog, with respectful treatment and adequate behaviour’. This sort of item appeared in 1984 and 1985 only. Another clause within the same subtopic was a commitment assumed by employees not to undertake industrial action during the period of validity of the agreement.

Table 31: Sub-topics and clauses concerned with Collective Disputes

Sub-topic	Clauses
Conflict resolution	Strike threat
	Cessation of a lawsuit
	No dismissal of strikers
	No payment of days lost in strikes
	Payment of days lost in strikes
	Conflicts were to be solved by the Labour Courts
	Compensation of days lost in strikes
Peace provisions	Commitment to dialogue and respectful treatment or adequate behaviour
	Promise not to undertake industrial action during the period of validity of the agreement
Interpretation	In case of conflicting interpretations of agreement clauses, the most favourable conditions for employees should prevail
	Different interpretations should be solved by the Labour Courts

Source: sample of agreements

Sample size (n) = 81 agreements.

In 1985 the scope of “labour-management relations”-related issues was broadened with the introduction of two new types of regulations in the existing topics. ‘Interpretation’ was included in the collective disputes area and ‘Method of Payment’, was included in the administrative issues topic. One of the clauses included in the

'Interpretation' subtopic established that 'different interpretations of bargaining regulations were to be solved by the Labour Courts'. Another clause stated that 'in case of conflicting interpretation of rules established in the agreements, the most favourable conditions for employees should prevail'. These issues became subject of occasional firm level bargaining regulations from 1985 onwards. The only provision of the "Method of Payment" subtopic stipulated that 'payment should be made in cash on Friday afternoons', improving the terms set in the CLT (Article 465).

Summing up, we have seen that collective bargaining regulations related to this subject area appeared for the first time in 1979. I consider this fact as a major development of the bargaining scope during the period, since it indicates the appearance of entirely new types of collective bargaining regulations. We have also seen that between 1980 and 1981, and between 1984 and 1985, an enlargement of the range of issues related to this subject occurred. Between 1982 and 1983 the height of the phase of economic recession of the early eighties, and after 1985, the process of broadening of the range of issues in this subject area stopped.

8.1.4 Trade Union Organisation

Agreement regulations concerning "trade union organisation" were found in the agreements during the whole period. The most long-standing issue were dues check-off. The second type of issues included in this broader subject area is union organisation, which was included in the bargaining scope of the selected economic sector in 1979 – see Table 32.

The only types of issues existent in the dues check-off topic in 1978 were the regulations concerning the 'Social Tax'. The specific clauses provided for the amount of

the social tax, the 'contribuição assistencial', employees and employers were to pay to their respective representative associations.

Table 32: Sub-topics and clauses concerned with Dues Check-off and Unions Organisation

Sub-topics	Clauses
Dues Check-Off	
Social Tax	Trade union social tax
	Employers' association social tax
Interest Association Dues	Discount of union dues directly from the payroll
	Employers' dues to employers' association
Union Organisation	
Factory committees	Setting up of worker run factory committee
	Rules for worker run factory committee
	Appointment of factory committee members
	Election of shop stewards
Announcements	Authorisation for the setting up of union announcement boards in firms
Leave for workers representatives	Leave for worker representatives in negotiation commissions
Stability for worker representatives	Temporary job stability for worker representatives in negotiation commissions
Information on work-related accidents and diseases	Companies were to inform union on cases of work-related accidents and diseases
Union power	Ratification of dismissals by the trade union
	Recognition of union as legal representative of employees before the company'
Other	Monetary contribution of the firm to the union

Source: sample of agreements

Sample size (n) = 81 agreements.

The process of enlargement of the bargaining scope in this subject area started in 1979 with the introduction of regulations concerning union organisation. The specific aspects then included in the agreements were: 'Stability for Workers' Representatives' and 'Other' issues. The first subtopic included a regulation establishing 'temporary stability for workers' representatives' in negotiation committees. The second included a clause establishing a 'monetary contribution from the firm to the union', which was a rule established in firm-level arrangements in 1979, 1981 and 1986 only.

Between 1980 and 1983 only one new type of “trade union organisation” agreement regulation was included in the scope of bargaining. The specific rule provided for the establishment of ‘union announcement boards in firms’. This subject became a new subtopic in the union organisation subject area, which is referred to as ‘Announcements’.

During the years of 1984 and 1985, a significant enlargement of the scope of bargaining in this subject area took place. In 1984 three new types of regulations concerning ‘Factory Committees’, ‘Leave For Workers’ Representatives’ and ‘Union Power’ were included in the union organisation topic. The specific regulations in the first subtopic provided for the ‘setting up of a worker-run factory committee’ and for ‘rules and functions of the factory committee’. In 1986 and in 1988 the same subtopic was enlarged with the introduction of two new clauses providing for the criteria for the ‘appointment of members of the factory committee’ and for the ‘election of shop stewards’. But these types of clauses were discontinued after 1988. The specific regulation included in the ‘Leave For Workers’ subtopic established ‘leave for workers that represent employees in negotiation commissions’. Finally, the agreement regulations included in the ‘Union Power’ subtopic established, first, that the company recognise ‘the union as a legal representative of employees before the company’ in order to claim additional payment for working under unsafe conditions. This clause altered the terms set in the CLT (Article 195, paragraph two), which had granted this right both to the union or to individual members. The second clause included in the same subtopic provided for the ‘ratification of dismissals by the trade union’. This provision enhances the role of the trade union improving the terms set in the CLT (Article 477).

In 1985 the enlargement of the bargaining scope in this subject area is expressed in the introduction of two new subtopics, one concerning dues check-off and another with union organisation. The first included two provisions relating to 'Interest Association Dues', one authorising managers to 'discount union dues directly from the payroll', and another providing for 'employers' dues to their respective associations'. In the second topic a new subject called 'Information' was inserted, which included a clause requiring the companies to 'inform the union on the number of cases (and what type of cases) of work accidents and work diseases'. This type of issue was already under the umbrella of the law (Governmental Order 3,214, of 1978, NR 5, item 5.2, "d"). The agreement provision however extended the right to have this type of information to the trade unions.

From 1985 onwards no new subjects in this subject area were included in the agreements. This means that in the second half of the eighties the enlargement of the bargaining scope came to a halt in this area.

Summing up, agreement regulations concerning this subject area were already existed in 1978. However, during the period, the scope of bargaining regarding these issues considerably enlarged. The most prominent development was the introduction of union organisation-related issues. The phase during which most of the types of regulations in the existent topics occurred was between 1984 and 1985. After 1985 no new issues of this type were introduced in this broader subject area.

Considering now the bargaining scope as a whole, we can conclude that during the period it considerably enlarged in the selected economic sector in relation to 1978. A major development was the introduction of regulations of a distinctive type, the "labour-management relation"-related aspects, in 1979. In addition to this, the progress of the scope is expressed in the fact that regulations of a new type were introduced in

the existent subject areas. Throughout the period, nine new topics, 44 new subtopics, and 115 new clauses were introduced. This confirms the state corporatism-is-dead hypothesis since as we have seen in 1978 and in the period prior to this date (see Chapter Three) the scope of bargaining was rather narrow. According to the literature (Alexander 1962; Sitrângulo 1978; Mericle 1974), in the early seventies the strongest categories of workers in the most industrialised areas of the country managed to establish multi-employer level agreement regulations pertaining to seven subtopics only.

However, the development of agreement regulations was not made at the expense of diminishing the role of legislation in the regulation of the employment relationship. This is why the corporatism-is-in-transition hypothesis is not confirmed. We have seen that collective bargaining rather combined with the law. In many cases the agreement provisions regulated issues already under the umbrella of the law. Nonetheless this type of job regulation, which combines law and collective bargaining, is quite distinctive from the patterns of social relations prevailing under the state corporatist system, during which the regulation of industrial relations relied mainly on the law. In the early nineties, although the law continued to be the principal means of job regulation, negotiation played a much more significant role, in relation to the late seventies, in defining terms and conditions of employment. The next section is concerned with the impact of the changes of the broader environment and on the outcomes of the negotiations.

8.2 Statistical analysis of the evolution of the bargaining scope

In this section I assess whether or not, and to what extent, the changes in the broader environment affected the evolution of the scope of bargaining. The analysis is focused on the variation of the amount of subtopics. I maintain that the subtopics

indicate more precisely the variation of the subject matter of the bargaining scope than the individual clauses. The distinctive agreement provisions frequently establish details on aspects that may have already been subject to former negotiations. The section starts with a brief review of the evolution of the amount of subtopics and then I present the results of the statistical analysis.

In the previous section we have seen that the scope considerably enlarged in the selected economic sector. In Table 33 I present a summary of the distribution of the amount of subtopics, per subject area and per type of subtopic during the period. I show, firstly, that the general amount of subtopics increased 628 per cent in relation to the amount of subtopics of 1978. Since the subtopics are expressions of different types of subjects, the increase of the amount of subtopics indicates that an enlargement of the scope of bargaining took place between 1978 and 1991. Secondly, the amount of subtopics that appeared in the agreements in 1991 does not correspond to the total amount of new subtopics plus the ones that already existed in 1978. This is because 29 per cent of the subtopics introduced after 1978 were extinguished during the period. Thirdly, we can see in Table 33 that the “terms of employment” subject area had the largest amount of subtopics. It included 43 per cent of the general amount of subtopics of the period. The rest of the subject areas had similar participation in the whole amount of subtopics: “conditions of work” 17 per cent; “labour-management relations” 19 per cent; and “trade union organisation” 17 per cent. Fourth, the subject area that grew most during the period was “labour-management relations”. This is because the regulations concerning this type of subject area were included after 1978. The only subject area in which the participation in the total amount of topics declined was “terms of employment”. In 1978 this area gathered 71 per cent of the amount of subtopics of that year, while in 1991 it gathered 47 per cent. This fact indicates that the scope of

bargaining became more diversified. Fifth, we can see that during the period 15 subtopics died out. The largest proportion of deaths occurred in the “conditions of work” subject area, amounting to 40 per cent of the general amount of subtopics of this subject area. “Terms of employment” was the area in which the percentage of extinguished subtopics was the lowest. It amounted to 23 per cent of the general amount of subtopics of the area. Sixth, the last finding of the research was that two thirds of the extinguished subtopics were established in firm-level arrangements only.

Table 33: Distribution of the amount of subtopics per subject areas and per type, 1978-1991

Subject areas	1978	1991	New	Dead	Total
Terms of employment	5	17	17	5	22
Conditions of work	1	6	9	4	10
Labour management relations	0	7	10	3	10
Trade union organisation	1	6	8	3	9
Total	7	36	44	15	51

Source: sample of agreements

Sample size (n) = 81 agreements.

In Table 34 and Figure 6 I show, firstly, that there are two distinctive phases of evolution of the scope of bargaining. Between 1979 and 1985 the annual amount of subtopics increased, while between 1986 and 1991 it declined in relation to the peak of 1985. This means that, in relation to 1985, a slight contraction of the bargaining scope in the selected economic sector occurred. Secondly, the slight decline and stagnation in the annual amount of subtopics between 1982 and 1983, in relation to 1981, resulted from the fact that some subtopics fell into a sleeping condition. Thirdly, the most important phase of innovation occurred between 1979 and 1981 and between 1984 and 1985. Fourthly, the decline and stagnation of the annual amount of subtopics after 1985 is derived: (a) from the increase of the number of sleeping subtopics; (b) from the rise of

the amount of dead subtopics; (c) from the lack of new subtopics, especially in the three final years of the period.

Table 34: Evolution of the amount of subtopics per type and per year, 1978-1991

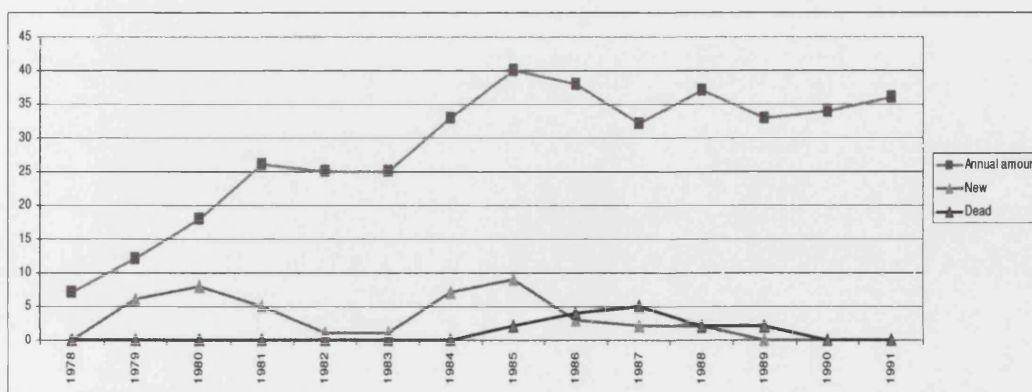
Year	Number of subtopics	New subtopics	Dead subtopics	Sleeping subtopics
1978	7	0	0	0
1979	12	6	0	1
1980	18	8	0	3
1981	26	5	0	0
1982	25	1	0	2
1983	25	1	0	3
1984	33	7	0	2
1985	40	9	2	2
1986	38	3	4	3
1987	32	2	5	6
1988	37	2	2	1
1989	33	0	2	3
1990	34	0	0	2
1991	36	0	0	0

Source: sample of agreements

Sample size (n) = 81 agreements.

Note: The amount of subtopics in a given year can be computed according to the following formula: (amount of topics of the previous year plus the amount of new subtopics of the given year) minus (dead subtopics of the given year plus sleeping subtopics of the given year) plus sleeping subtopics of the previous year.

Figure 6: Annual amount of subtopics, of new subtopics and of dead subtopics, 1978-1991



Source: sample of agreements

Sample size (n) = 81 agreements.

The next question I address is related to the factors that affected the variation of the scope of bargaining. More precisely, here I evaluate the impact of the changes of the political and of the economic environments on the variation of the bargaining scope. The impact of the changes of the political regime was calculated by applying the t-test for differences in means for the variation of the amount of subtopics and the variation of the amount of new subtopics per political period. The two periods I use are the military regime (between 1978 and 1984) and democracy (between 1985 and 1991). By applying the multiple regression analysis I assessed the impact of the changes in the economic context on the variation of the amount of subtopics and the amount of new subtopics. The independent economic variables are inflation rates, annual rates of economic growth of the state of Rio Grande do Sul, unemployment rates, and real minimum wage.

By applying the t test, I found evidence that the annual average amount of subtopics was affected significantly by the changes in the political environment (Table 35). The test shows that the average amount of subtopics increased during the democratic phase ($t = -4.158$; $p = 0.001$). The annual average amount of subtopics during the military regime was around 21 subtopics, while during the democratic phase it reached around 36 subtopics. But the changes in the political environment fell short from affecting the annual average amount of new subtopics ($t = 0.992$; $p = 0.341$).

Table 35: Average amount of subtopics and average amount of new subtopics, per political sub-period, value of t and the level of significance

Political period	Average amount of subtopics	Average amount of new subtopics
Military regime (1978-1984)	20.9	4.0
Democracy (1985-1991)	35.7	2.3
Value of t	-4.158	0.992
Significance (p)	0.001*	0.341

* Significant at 5% level.

Sample size (n) = 7 military regime; = 7 democracy

The impact of the economic environment was assessed with the multiple regression analysis. The model shows that there is no significant relationship between the set of independent variable and the dependent variables. In the case of the annual amount of subtopics the coefficient of determination (R square) was 0.478 ($p = 0.169$). In the case of the annual amount of new subtopics the relationship was also not significant. The coefficient of determination reached 0.468 and $p = 0.182$.

Table 36: Results of the regression analysis with results of relationship between rates of economic growth and amount of new subtopics, 1978-1991

Components of the model	New subtopics (Coefficients)
R square	0.379
Constant	2.237
Significance	0.019*
Rates of economic Growth	0.442

* Significant at 5% level.

Sample size (n) = 14.

The regression analysis shows that the most significant result was the relationship between the annual rates of economic growth of the state of Rio Grande do Sul and the annual amount of new subtopics. I decided then to run a simple regression analysis in order to assess to what extent that independent variable could predict the variation of the annual amount of subtopics. The regression analysis shows that there is evidence of a positive and significant ($p = 0.019$), though weak (R square = 0.379), relationship between the rates of economic growth and the annual amount of new subtopics (Table 36). The equation of the regression model is the following:

$$\text{Number of new subtopics} = 2.237 + 0.442 \times \text{annual rate of economic growth}$$

This means that one per cent of increase of the economic growth of Rio Grande do Sul leads to an expected increase of 0.442 in the number of new subtopics.

Summing up, in this section I have shown that the amount of subtopics considerably increased until 1985. From then onwards, the bargaining scope slightly contracted in relation to the peak of 1985. I also have shown that there is evidence that the political liberalisation has positively affected the amount of subtopics. This indicates that democracy favoured the strengthening of the regulation of industrial relations through collective bargaining. I also show that the process of enlargement of the bargaining scope, expressed in the amount of new subtopics, varied considerably during the period. I have also shown that the amount of new subtopics was positively affected by the performance of the regional economy, although this relationship is relatively weak. In the next subsection I will discuss the result of the statistical analysis and the aspects that may have affected the evolution of collective bargaining, and will advance ideas in relation to the role of collective bargaining in the regulation of industrial relations.

8.3 Discussion

The first part of this section is concerned with the characteristics of the bargaining scope, with the significance of this fact, and with the impact of the broader environment in its evolution. The second is concerned with the extent to which collective bargaining regulations developed in relation to international standards. Finally, the third is related with the nature of the collective bargaining regulations. From the conclusions drawn from the evidence, I advance some ideas regarding the changes of the role of collective bargaining in job regulation.

We have seen that the scope of the agreements became more diversified during the period. Apart from wages and, more specifically, apart from pay-related issues, which used to be the most numerous type of regulations in the period prior to 1978,

during the eighties, the agreements included a whole set of new types of regulations. In addition to pay increases, unions sought to improve earnings by negotiating indirect forms of remuneration, such as paid leave and social security related issues. Moreover, unions won a set of rights improving workers' job stability for special groups, such as pregnant women and workers near retiring age. They also managed to reduce, to some extent, managers' discretionary powers by establishing administrative rules that enabled workers to have more control over their individual employment contracts. Furthermore, unions managed to make advancements in the area of working conditions by including welfare-related issues, as well as protection against accidents. Finally, in the selected economic sector they even managed to introduce some union rights, such as union boards in firms, leave for workers' representatives, and even, in some cases, the right to organise factory committees.

If we compare the amount of agreement provisions in 1978 (see Chapter Three) and the amount of agreement items found in the agreements during the period, we can see that there was an increase of 675 per cent. As a reminder to the reader, the number of clauses negotiated in the period prior to 1978 – according to Mericle (1974), Alexander (1962), and Sitrângulo (1978) - amounted to around 16, while the agreement items established in the selected economic sector between 1978 and 1991 amounted to 124. This fact suggests that significant changes in union-management relationship have occurred. Unions were not only willing to negotiate and have become more autonomous in relation to the state, but also that they managed to win concessions from employers through collective bargaining.

The broadening of the range of issues could be accounted for the propensity for negotiations, by which I mean the willingness of unions and management to undertake negotiations, in the selected economic sector. This, in turn, as we have seen in Chapter

Four, could be accounted to the rise of the 'new unionism' in the late seventies. One of the aims of the new union leadership, which had deep roots in the selected segment of the engineering industry, was to overcome the excessive dependence of the working class on the state by improving wages and working conditions through collective bargaining.

The statistical analysis shows that the political environment, as indicated by the annual amount of subtopics, positively affected the evolution of the bargaining scope. This result suggests that the political liberalization process not only increased the opportunities for negotiations, but also favoured the practice of bargaining. This, in turn, is expressed in the increase of the annual amount of collective bargaining regulations. The decrease of the annual amount of subtopics after 1985, and the lack of new subtopics after 1988, suggests that other factors affected the bargaining power of unions and hence the evolution of the scope. One of the factors was the evolution of the economic performance of the state of Rio Grande do Sul. The statistical analysis indicates that there is a significant positive, although relatively weak, relationship between the economic performance of the state and the annual amount of new subtopics. We can see that during the phases of economic recession of the early eighties and of the late eighties and early nineties the amount of new subtopics declined while in phases of growth its amount also increased. This fact suggests that the economic downturn may have favoured a rise of dismissals (or a rise of threats of dismissals) in the selected economic sector.⁴ This, in turn, may have hindered unions in furthering improvements in working conditions through collective bargaining during that phase.

Evidence collected in interview statements can be used to shed some light on other reasons that may have led to the fluctuations of the annual amount of new issues

⁴ There is no official data on unemployment levels in the specific segment of the engineering industry I have analysed for those years.

in the scope of bargaining. Firstly, according to one managers' representative, in addition to the economic crisis of the late eighties and early nineties, employers were to comply with the rules established in the 1988 Constitution that enlarged workers rights. The introduction of new legal regulations (see Chapter Four) increased the labour cost. This fact, according to an employers' representative (Respondent 7), alongside the troubles posed by the economic recession to the firms, led to an increase of the reluctance of employers to make concessions. Secondly, other factors that are likely to have undermined further development of collective bargaining were the challenges posed by the increase of foreign and domestic competition in the final years of the eighties and especially in the early nineties. The response of the companies to the changing context was the introduction of managerial and technical changes. In that period, firms were furthering cost reduction strategies and trying to improve the levels of productivity and quality by introducing new technologies and management styles. The enterprise modernisation process implies downsizing and the introduction of managerial strategies characterised by employee involvement. As pointed out in Chapter Seven, these aspects negatively affected the capacity of unions to put pressures over employers, and it is likely this hindered a further progress of the scope.

The second concern of this section is to assess the development of the subject matter of collective bargaining in the selected economic sector in relation to international standards. The comparison took into consideration a list of standard issues that can typically be found, according to Farnham and Pimlott (1995: 166-172) and Kochan (1980: 29), in collective agreements set in the USA and in Britain. I conclude that in Brazil the agreements were still narrow in scope in the early nineties. Firstly, in the selected economic sector, there was a lack of procedural agreements. The latter are here defined as those that establish rules regulating the relationship between the parties

in the negotiation process (Farnham and Pimlott 1995: 167). Secondly, regulations related to payment systems and pay structures, re-deployment, staffing levels, job evaluation schemes, allocation of work, structure of work groups, the manner in which work is to be conducted, promotion practices, and subcontracting were not present in the settlements. Thirdly, there were no provisions regulating the introduction of new technologies, plant removal and, up to the early nineties, there were no clauses aimed at introducing labour flexibility and training and retraining schemes. This comparison suggests that there was plenty room for a further development of collective bargaining regulations in Brazil.

The final aspect I am discussing here refers to the nature of the bargaining regulations. The question is what is the relationship between agreement provisions and the labour legislation? We have seen in section 8.1 that many agreement provisions regulated aspects already under the umbrella of the law, here referred to as the legal issues. We can distinguish several types of legal issues. Some are required by the law to be negotiated, others improve official standards, and others replicate legal stipulations.

Although in several cases the agreement provisions established extra-legal issues, according to (Horn 2003: 104-138), who has studied the evolution of the subject of the collective bargaining in the same area and period I have considered in this research, there is evidence that, in most cases, the enlargement of the scope occurred in areas already under the umbrella of the law. Moreover, the same author maintains that there is evidence that most of the negotiated legal issues introduced improvements to the legal standards. According to Horn, in 1994, the legal issues accounted for around 63 per cent, on average, of the annual amount of agreement provisions. The legal issues that replicate the law amounted to 4.1 per cent, in average, of the annual average amount of clauses established between 1978 and 1994.

Questioned about the reasons that led the parties to include provisions that were mere replications of legal regulations, the representative of the Ministry of Labour affirmed that the parties sought to ease the enforcement of legal rights through this procedure (Respondent Three). Once this type of provision became an agreement item, and in the case of employers' reluctance to comply with the law, unions were authorised to directly activate the Labour Courts for the enforcement of the agreed rules. The labour tribunals were empowered to take hold of businessmen's properties if the law (which through this procedure was made an agreement rule) was not being followed accordingly. This is called "ação de cumprimento". In the view of the representative of the Ministry of Labour, in these cases the matter was solved more speedily and efficiently than if the case were filed in this Ministry.

The fact that most of the agreement provisions were legal rules indicates that the progress of the bargaining scope was not made at the expense of the law. On the contrary, it indicates that collective bargaining developed in combination with the legal regulations. Based on this finding I conclude that the function of collective bargaining became chiefly the improvement of the legal standards and, complementarily, the regulation of extra-legal issues.

Conclusion

In this chapter I have shown that the bargaining scope considerably progressed between 1978 and 1991. My research confirms a fact that has been pointed out by a number of authors, namely Abramo (1991), Córdova (1985), Carvalho Neto (1999: 161-210), Horn (2003), Noronha (1998a), Pastore and Zilberstajn (1988), Rodrigues (1990: 70), Silva (1988), Siqueira Neto: (1991), Smith (1993: 61-62). The development of the scope is indicated by the broadening of the range of issues the collective bargaining

agreements regulate, which in turn suggests that collective bargaining has strengthened its role in the regulation of industrial relations between 1978 and 1991.

This broadening of the scope represents a rupture from the patterns of union-management relationships prevailing prior to 1978. We have seen in Chapter Three that during that period collective bargaining played quite a marginal role in establishing rules for the employment relationship. The development of the scope in the eighties is indicated by the significant diversification of collective bargaining regulations. In addition to the expansion of “terms of employment” related issues, the agreements also included regulations related to “conditions of work”, “labour-management relations” and those related to “trade union organisation”.

The development of the bargaining scope indicates changes in the patterns of union-management collective relationships. It shows that workers managed to increase their say in industrial relations and that they won, in practice, the right to participate in the establishment of rules. This fact confirms what we have already seen in Chapter Seven. That is to say, it indicates that a considerable break with the patterns of social relations prevailing under state corporatism occurred. In other words, evidence confirms the corporatism-is-dead hypothesis. The corporatism-is-in-transition hypothesis is not confirmed since there is no evidence of a continuous expansion of the subject of the agreements.

The corporatism-is-in-transition hypothesis is also not confirmed since there is no evidence that the development of collective bargaining regulations was made at the expenses of the diminution of the role of the law in the regulation of industrial relations. Rather, we can see that the negotiations progressed in combination with the law. Based on the data that I have collected and on a study of Horn (2003), I conclude that most bargaining regulations improved the legal standards. From this fact I ALSO conclude

that collective bargaining became, during the eighties, chiefly a means by which unions improved the terms set by the law.

Despite the progress, the collective agreements were still narrow in scope. I contend that a number of standard issues established in the settlements in Britain and North America were lacking in Brazil. This means that there was room for further development of bargaining regulations in this country. The lack of development of Brazilian agreements could be partly explained by the characteristics of the industrial relations system. As we saw in Chapters Three and Four, the labour law was quite comprehensive, and it actually became more comprehensive during the eighties (Noronha 1998a: 59, 1998b). It regulates aspects that in a pluralist industrial relations system have to be established through collective bargaining.

I have also shown that political liberalisation positively affected the progress of the scope, which is indicated by the enlargement of the annual amount of negotiated issues. The period during which democracy was re-established in the country coincided with changes in the status of unions in industrial relations. The increase of union rights increased the opportunities for the development of negotiations and this, in turn, is expressed in the increase of the annual amount of agreement items. I have also shown that the development of the scope was affected by the fluctuations of the regional economy. I point out that the phases of high economic growth favoured the process of diversification of the scope, whereas the phases of economic downturn hindered the introduction of new types of subjects in the agreements.

CHAPTER NINE

CONCLUSION

In the first part of this chapter I present a summary of the aims of this study. In the second I present the findings of the research and my overall conclusions regarding which hypothesis here tested was confirmed and to what extent. In the third section I come up with speculations about whether my findings could be generalised to Rio Grande do Sul, to Brazil and even to Latin America. I also speculate about the nature of the changes in Brazilian industrial relations from the early nineties until the mid- 2000s. In the final section I present ideas for future research.

9.1 The aim of this research

In this thesis I have dealt with the nature of the evolution of industrial relations in Rio Grande do Sul between 1978 and 1991. I tested the conflicting assumptions of three authors as regards to whether the state corporatist arrangement set up during the 1930s still remained by the early 1990s (Siqueira Neto 1991, 1992, 1994a, 1994b), whether it was in transition towards a liberal system (which I interpret as being pluralism) (Rodrigues 1990, 1993), or whether it was dead (Córdova 1989). The last author fell short from labelling the industrial relations that, in his view, replaced the old model. According to my interpretation, he was vaguely suggesting that it was a system that was pluralist by nature.

In Chapter Five I demonstrate that the ideas of these authors are consistent with their assumptions. The different views derive from the distinctive theoretical backgrounds of the researchers, which are expressed in the way they define corporatism,

in the aspects they emphasise, and in the criteria by which they assess the nature of the changes. In my understanding, the differences among the views of the selected authors do not derive from the evidence they use.

We have seen that Neto stresses the authoritarian nature of state corporatism that, in his understanding, is embodied in the legal background. Authoritarianism, in his view, is expressed in the lack of freedom to organise, as well as in the constraints to the right to strike and to collective bargaining. Since the monopoly of representation principle and the collective bargaining regulations of 1967 were preserved by the 1988 Constitution, and since restraints to abusive acts in strikes were established, the author concludes that corporatism was not dead. Neto evaluates the extent of freedom to act and to organise in relation to the normative model he was proposing (in the early 1990s) to be established in Brazil, which he labels as 'Collective Labour Contract' ('Contrato Coletivo de Trabalho'). In his view, state corporatism would be dead if the legal regulation corresponded to this model.

Rodrigues, the second selected author, sees state corporatism as a form of organisation of the actors enforced by the state with the view of moderating the behaviour of the interest associations of employers and especially of employees. He maintains that under state corporatism employers and employees are organised according to the monopoly of representation principle. Since the 1988 Constitution preserved the form of organisation established by the Vargas regime in the 1930s, thanks to the preservation of the aforementioned principle, the author concludes that state corporatism was not dead in the early 1990s. However, with the rise of the strike movement and the organisation of independent union confederations, the author decided that state corporatism was starting to decline. The same author also assumes that the Brazilian system was in transition towards what he vaguely defined as liberal industrial

relations system, which I interpret as being a pluralist model (see Chapter Two for the definition of this type of social system).

Finally, Córdova, the third author, views Brazilian state corporatism, which he labels as quasi-corporatism, essentially as a system characterised by a low propensity of the parties for conflict. This author concludes that state corporatism was dead in the late 1980s because of the very high incidence of strikes that occurred during that decade. The high propensity of the parties for conflict indicates, according to him, that the character of labour relations has changed profoundly.

The arguments of these authors have strengths and weaknesses. The major strength is the analysis of the changes introduced in the legal background during the 1980s and the analysis of the labour movement, which is especially the strong point of Rodrigues' work. The deficiency lies, firstly, in their concepts of corporatism while the second lies in the way they regard the regulation of industrial relations.

I assume that corporatism (either the authoritarian or the societal types) is a form of relationship between the state and interest associations rather than: (a) a cultural feature that underlies this type of social institution (Neto's view); (b) a form or organisation of unions and employers (Rodrigues' view); (c) a specific inclination and behaviour of the parties in an industrial relations system (Córdova's view). I have argued that the authors' definitions of corporatism are deficient because they tend to overlook especially the implications of this type of system for the status of the actors and for the form of interaction between state and employers and employees. Following Williamson (1989), under the authoritarian or societal forms of corporatism the interest associations of employers and employees are required to perform public functions handed over by the state. A crucial aspect is that by acting in certain ways considered to be in the public interest, the function of representation of the needs and interests of

members of unions and employers' associations is distorted. These organisations become not only representative bodies, but also regulatory ones. From this derives the idea that corporatism involves a measure of control over the actions of the members of the legal interest associations, which can be exerted from the outside by state intervention, or might be carried out by the organisation itself. In the first case, we have the authoritarian type of corporatism, which was established in Brazil during the 1930s; and in the second case, the neo-corporatist arrangements.

The second deficiency in the theories of the selected authors is, in my view, that they regard the regulation of industrial relations, i.e. the way rules are established, as a secondary aspect to the definition of an industrial relations system. Neto focuses on the legal aspects, Rodrigues on the form of organisation of the actors, and Córdova on the propensity for conflict or co-operation. In the research reported here, my aim was to overcome the limitations of these theories by analysing the regulation of industrial relations. I am based on the assumption derived from Dunlop's system theory. I presuppose that fundamental features of labour relations are expressed in the ways rules are set and administered. I assume, moreover, that by analysing the features of collective bargaining I can assess the nature of an industrial relations system and the nature of its evolution through time. I maintain that we can evaluate whether or not, and to what extent, collective bargaining has developed in a given system by analysing both the form of the collective relations between employers and employees and the bargaining scope. None of the chosen authors has undertaken a systematic analysis of the extent of development of collective bargaining, focusing this issue in depth. In my view the approach adopted by these authors led them to focus on secondary issues (such as the general character of the law, of union organisation, and of the parties' attitudes), hindering them from identifying actual changes in the form of the actors' interactions.

This is reflected in the lack reliable data on collective bargaining, which, in turn, led to a rather weak (or partial) analysis of the evolution of the nature of the regulation of industrial relations, and hence, of the nature of the industrial relations system.

If industrial relations are viewed from the perspective of the role played by collective bargaining in the regulation of the employment relationship, we can identify four distinctive types of systems. Based on a classification scheme put forward by Crouch (1985) and Salamon (1998), I could identify the following types: (a) market individualism, (b) pluralism, (c) bargained corporatism, and (d) state (or authoritarian) corporatism. Market individualism is a system in which unilateral management regulation prevails, unions are weak and collective bargaining lacks development. Pluralism is typically a collective bargaining-based industrial relations system. In societies in which this model is predominant, unions are typically autonomous, and the state upholds the principle of non-intervention in union-management disputes, favouring the development of the practice of negotiations. In bargained corporatism unions and management also regulate their relationship through collective bargaining. The distinctive feature of this model, in relation to the pluralist system, is that the state is a bargaining partner of workers and employers. Finally, the state (or authoritarian) corporatist system is characterised by the prevalence of very extensive state regulation, weak unions and underdeveloped collective bargaining.

Based on this typology, we can define the Brazilian industrial relations that prevailed from the 1930s until the late 1970s as a state corporatist system. I have shown that employers, and especially employees, were constrained in their autonomy and were very dependent on the state. This model was characterised by a very weak development both of collective bargaining relationships and of the bargaining scope. The regulation of industrial relations was taken over by the state through the enactment of a very

extensive set of legal regulations. The resolution of labour disputes was dealt with by the Labour Courts rather than by the parties themselves.

As seen in Chapter Four, the 1980s were marked by the rise of the trade union movement – whose starting point is 1978 – by the end of the military regime set up in 1964, and by the decline of the model of economic development based on the import substitution of industrialised goods established in the 1930s. These developments affected the evolution of the industrial relations system. We could observe (in Chapter Four) that the 1988 Constitution changed the status of the actors by eliminating the state constraints over the interest associations' internal affairs. It granted unions and employers' associations freedom to represent the interests of their members, thus increasing the opportunities both for these organisations to act as interest groups and for the development of collective bargaining.

The specific problem addressed by this research is whether or not, and to what extent, collective bargaining developed during the 1980s. I assume that, if there is evidence of a significant development of collective bargaining, we can conclude that the patterns of regulation of the union-management relationships typical to the state corporatist system were overcome and, hence, that the industrial system could no longer be referred to as state corporatism. I assume that a significant development of negotiations is expressed both in a decline in the levels of dependency of the actors to the Labour Courts in dispute resolution and in the development of collective bargaining relationships. Moreover, a significant development of collective bargaining is also indicated by a considerable increase both of the amount of issues of the collective agreements and of the range of issues regulated by them. If there is evidence that the parties remained very dependent on the state, if there is a lack of development of collective bargaining relationships as well as of the scope of bargaining, then the state

corporatism-is-not-dead hypothesis is confirmed. Finally, I also posit that the corporatism-is-in-transition hypothesis is confirmed if there is evidence of: (a) a continuous increase in the autonomy of the parties in relation to the state in dispute resolutions during the period; (b) the development of collective bargaining relationships; (c) a continuous increase of the scope of the collective agreements. If there is evidence that the state corporatism ended, and if the transition hypothesis is not confirmed, then I assume that a new type of system has replaced the old model. I assume that it could be either any of the categories distinguished by Crouch-Salamon or a different type of system.

I analysed a varied set of data in this research. One type of information refers to the records of all collective labour disputes registered in the files of the Labour Courts and in the Ministry of Labour. Another set is a sample of collective agreements and arbitration awards established during the same time period in a segment of the engineering industry of the Greater Porto Alegre region. A supplementary source of evidence are the interviews held with representatives of the Labour Courts, of the Ministry of Labour, of unions' and employers' associations of the same segment of the engineering industry of the Greater Porto Alegre region, and with a representative of a trade union advisory agency. The last sources of information are the studies and official statistics on the regional and national economy and society.

The study of the evolution of the procedures adopted by unions and management in dispute resolutions in Rio Grande do Sul, and especially the study of the characteristics of union-management interactions during this process are the most innovative aspects of this research. The originality of the analysis of the evolution of the bargaining scope in relation to the studies of other authors – such as Horn (2003), Aguirre et al. (1985), Brandão (1991), Carvalho Neto (1999), DIEESE (2001) – is that I

distinguish the phases of innovation, characterised by the introduction of new industrial relations themes in collective agreements, and the phases during which some subjects appeared and disappeared. My study is also innovative in demonstrating when and at which level the different subjects were negotiated and how agreement issues differ from the legal regulations.

9.2 Main findings

The most important conclusion of this research is that collective bargaining, as a method of regulation of the employment relationship, progressed in Brazil between 1978 and 1991. This is indicated by the development of collective bargaining relationships and by the progress of the bargaining scope. The progress of collective bargaining indicates that a break away from the patterns of union-management relationships, which was typical to the authoritarian corporatist system, occurred. This fact confirms the corporatism-is-dead hypothesis. According to my findings, a new type of system, which does not fit in any of the categories of the Crouch-Salamon typology, has emerged.

The first major finding, the development of collective bargaining relationships, is expressed in an increase of the autonomy of unions and management from the state in the resolutions of collective labour disputes when compared to the patterns prevailing in the period prior to 1978. This is indicated by changes in the procedures adopted by employers and employees in dispute resolutions. In the early 1970s, according to Mericle (1974), the majority of the cases of labour disputes were solved through arbitration, the procedure characterised by the highest level of involvement of the state, whereas between 1978 and 1991 the majority of cases in Rio Grande do Sul were solved through conciliation, a procedure characterised by a medium level of autonomy of the

parties. This change in behaviour indicates that the parties managed to become less dependent on the state during the 1980s. In conciliation processes the responsibility for making decisions and reaching a solution remains in the hands of parties to the negotiations. The conciliator has no authority to compel or to impose a settlement. In other words, the adoption of conciliation implies in the development of a measure of autonomy in decision-making.

The second major finding is that union-management relationships changed during the 1980s in relation to the period prior to 1978. This is expressed in changes in the wage campaigns in the selected segment of the engineering industry of the Greater Porto Alegre region. The wage campaigns were the phases of annual renewal of the current collective agreements that corresponded to the periods during which the parties undertook collective bargaining. They entailed three distinctive phases, namely: a) the establishment of the list of demands; b) the preparation of the negotiations; and c) the negotiation phase. Although wage campaigns were a long-standing practice in Brazilian industrial relations, there is evidence that during the 1980s the parties both increased their autonomy in relation to the state with respect to dispute resolutions and also managed to become more responsive to the interest of their members, as well as more effective in negotiations. I assume that effectiveness is the capacity of the parties to the negotiations to influence rule making in industrial relations.

The form of union-management relations during the conciliation phase within the labour tribunals, as well as the behaviour of the Labour Courts were of particular interest to my research. The case of the engineering industry of the Greater Porto Alegre region is typical since, during each year of the period under consideration, in this sector the parties filed all multi-employer level processes of labour disputes in the Regional Tribunal of Labour.

The increase of autonomy of the parties in the form of union-management interactions is expressed, firstly, in the fact that, even though the process was filed in the Labour Courts, the dealings of the parties were no longer circumscribed, as used to occur in the period prior to 1978, to the contacts they held in the labour tribunals in the few conciliation hearings. In contrast, in the 1980s the parties started to negotiate weeks before the reference date and their dealings frequently lasted two or three months after that date. Secondly, the increase of autonomy is also expressed in the fact that the lists of demands were sent directly to employers, no longer only to the tribunal, as in the past.

There is also evidence that the interest associations of employers and employees became more responsive to the interest of their members in relation to the patterns prevailing before 1978. The responsiveness of the interest associations is expressed, first, in the way unions established the list of demands. In the past the list was drafted by union directors, whereas, in the 1980s, union leadership carried out extensive consultations and discussions with rank-and-file workers. The second is the way the negotiation commissions were established. In the 1980s representatives of workplaces that were appointed in assemblies formed these commissions. In the past, the contact between unions and management was held between the directors of the respective interest associations plus the respective judicial consultants.

The most important indication of autonomy of the parties in relation to the state is that they became more effective in the negotiations. Firstly, the parties improved negotiation skills by training negotiators and by hiring the services of negotiations experts, which rarely occurred in the period prior to 1978. Secondly, there is evidence that, at the negotiation counter, the parties were better prepared in relation to the past, in terms of: (a) information regarding the performance of the economy and of enterprises

in the respective economic sector, (b) goals, priorities, crucial demands and bargaining limits, (c) negotiation strategies and pressure tactics. Thirdly, the exercise of union pressures over managers, such as strikes, strike threats, and other forms of industrial actions, became a normal way of acting during the phases of dispute resolution. After 1964 these types of pressures were forbidden and, according to Mericle (1977: 331), the occurrence of industrial action was uncommon. In the period prior to 1978 union pressures were chiefly directed to the tribunals rather than towards employers. Fourthly, in the 1980s industrial actions were actively supported by the rank-and-file (Almeida 1996; Keck 1989). In the past – more exactly during the period prior to the 1964 military coup - strikes were organised by the union directors in a top-down style, with little direct support of workers at workplaces. Based on this type of evidence, I conclude that during the 1980s the interactions of the parties could be characterised as power relationships, which was hardly the case in the period prior to 1978.

The third major finding of this research is that the Labour Courts played a role in the progress of collective bargaining. Firstly, the judges refrained from becoming directly involved (or, more exactly, they tried to avoid becoming involved) in the dealings of the parties. In my view, this fact increased the opportunities for the development of negotiations, which is indicated by the development of collective bargaining relationships. The point is that the judges were not orientated towards undermining the authority of the parties in regulating their relationships. A measure of the authority of unions and management was undermined when the output of the dealings of the parties (if reached at the conciliation stage) was submitted for approval. The law required the judges to examine the agreements that they established in order to verify whether or not the law was respected. Secondly, there is evidence that the labour

tribunals sought to encourage negotiations by making the conditions established in arbitration awards less advantageous for the parties than those set through negotiations.

The conclusion that Labour Courts played a role in the development of collective bargaining is not entirely in accordance with the assessment of the literature – Neto (1991, 1992, 1994b), Rodrigues (1990), Córdova (1989), Pastore and Zylberstajn (1988). In the view of these authors, the Labour Courts hindered the progress of collective bargaining. My research has shown that the parties developed a measure of dependency in relation to the tribunals. This was encouraged, firstly, by the fact that the courts would guarantee workers' rights established in the labour legislation. Secondly, it was also favoured by the fact that the tribunals decided the cases based on normative precedents, which meant the Labour Courts extended rights won by strong groups of workers in negotiations to other workers. Thirdly, dependency of unions was also favoured by the fact that tribunals ensured the compliance to the agreed rules by reluctant employers. Finally, the courts favoured the dependency of employers especially because they regarded this as means to keep order and to solve disputes.

However, we have seen that there is evidence that the Labour Courts did not prevent collective bargaining from developing. The progress of collective bargaining relationships was rather combined with the workings of the Labour Courts. More precisely, the development of collective bargaining took place mainly at the conciliation stage. Comparing the period prior to 1978 with that of the 1980s, I conclude that unions and management moved from a situation of high dependency on the Labour Courts towards a situation in which they became less attached to the tribunals. In Rio Grande do Sul they reached a medium-level of dependency in relation to the state for the resolution of their disputes.

The fourth major finding of this research is that, during the period under investigation, the bargaining scope increased considerably. This conclusion was drawn from the analysis of a set of collective agreements established in the selected segment of the engineering industry of the Greater Porto Alegre region. The progress of the scope is expressed not only in the considerable increase in the amount of agreement items during the period, but also in the diversification of the types of issues regulated by the agreements. Unions managed not only to expand rights related to “terms of employment” by including social security and security of employment aspects, but also to win other issues concerned with “conditions of work”, “labour-management relations” and “trade union organisation”. The progress of the bargaining scope, which indicates a strengthening of collective bargaining, confirms the conclusion that unions became more effective in negotiations.

However, the negotiations chiefly progressed in areas already under the umbrella of the law, although some progress was made in terms of regulation of extra-legal aspects. The majority of the agreement items introduced further advantages for employees in terms of legal standards. We can conclude that the bargaining scope became chiefly a means to improve the legal regulations and, secondarily, a way to regulate extra-legal issues.

Despite the enlargement of the scope, the subject of the agreements established in Rio Grande do Sul was still narrow in relation to the subject of agreements fixed in the USA and in Britain (Farnham and Pimlott 1995; Kochan 1980). This is indicated by the lack of standard agreement issues, namely: (a) provisions regarding the handling of grievances; (b) industrial democracy related issues; (c) regulations related to payment system and pay structures; (d) job evaluation schemes; (e) allocation of work; (f) manner in which work is to be conducted; (g) new technologies and training schemes;

and other issues. Most of the rules established in the Greater Porto Alegre region were substantive terms of employment. Procedural agreements, as well as working arrangements, were not found in the area. This fact indicates that there was still considerable room for a further expansion of collective bargaining regulations in Brazil.

The significant increase of autonomy of the parties in relation to the Labour Courts, the development of collective bargaining relationships and of the significant enlargement of the bargaining scope indicates that a breakaway from the marginal role of collective bargaining in the period prior to 1978 occurred during the 1980s. The interest associations of employers, and especially of employees, both changed their status in industrial relations and managed to actively participate in the regulation of industrial relations, at least to some extent. The parties were no longer committed to co-operating with the state in promoting class harmony. We have seen in chapter four, that during the 1980s unions won autonomy from the state and that the opportunities for negotiations increased. The development of collective bargaining reveals that the parties started to act as bodies committed to the interests of their members. In this sense, their interaction could be characterised as a power relation, which is a fundamental feature of collective bargaining relationships.

The fifth major finding of this research is that the evolution of collective bargaining during the period was considerably affected by the changes in the political context and, especially by the changes in the economic context. On the one hand, the end of the military dictatorship favoured the development of collective bargaining relationships and of the progress of the bargaining scope, expressed in the increase of the annual amount of agreement issues. However, on the other hand, there is evidence that the rise of unemployment and of inflation rates, the decline of real wages, and the economic recession of the late 1980s, negatively affected the progress of negotiations.

In that period the Labour Courts' involvement in dispute resolutions increased. This is reflected in the rise of the participation of the annual amount of cases of arbitration in relation to the total amount of collective labour disputes. The statistical analysis showed that it was the decline of real wages that led to the growth of arbitration. There is also evidence that union strength was affected in our sample by the decline of the performance of the regional economy and by the introduction of technological and organisational changes in the enterprises. The decline in bargaining power led to a stagnation of the scope of bargaining, as indicated by the lack of new types of agreement issues between 1989 and 1991.

The general conclusion is that industrial relations evolved from a situation in which negotiations were rare and a marginal means of regulation of labour relations, towards a situation in which bargaining became an important mechanism. Unions and employers' associations managed to share decision-making through collective bargaining, at least to some extent. The old, highly interventionist, repressive and state regulated industrial relations gave birth to a new model in which the parties developed a considerable measure of autonomy in relation to the state.

I also conclude that the Brazilian industrial relations system can no longer be classified as state corporatism. The authoritarian features of the period prior to 1978, embodied in the extensive state intervention in union affairs, were removed. The end of state control increased the opportunities for union demand-making functions to develop and for collective bargaining to become a real form of regulating the employer-employee relationship. We have seen that collective bargaining developed during the 1980s and that, by the early 1990s, it played a significantly larger role in the regulation of industrial relations compared to the past, despite a measure of involvement of the

Labour Courts in dispute resolutions. I conclude that this rejects the corporatism-is-not-dead hypothesis and confirms the state corporatism-is-dead hypothesis.

The corporatism-is-in-transition hypothesis is also not confirmed since there is no evidence that Brazilian industrial relations was moving towards pluralism. I have shown that there is no evidence of a continuous growth of the autonomy of the parties in relation to the Labour Courts, and neither of a continuous increase of the bargaining scope. I have shown in Chapter Seven that the parties still rely or depend, at least to some extent, on the Labour Courts to solve their disputes. I have also shown that the scope of the agreements stabilised in the final years of the period under consideration. Thus, rather than indicating a period of transition, these facts suggest, in my view, that the transition phase was over by the late 1980s and early 1990s. This is why I think that the transition hypothesis is not confirmed. This conclusion seems to be correct in face of the nature of the evolution of industrial relations during the nineties as I will comment in the next section.

I conclude that the new system cannot be referred to as collective bargaining-based industrial relations. Evidence indicates rather that there was a move from a model that combined authoritarian state control over union affairs and statutory regulation, towards a system of labour relations that combined statutory regulation, a measure of Labour Court involvement in dispute resolutions, a measure of union autonomy and collective bargaining.

Yet the industrial relations system that appeared in the late 1980s does not fit into any of the industrial relation models distinguished by Crouch (1985) and Salamon (1998). The new system cannot be classified either as a bargained corporatist model or a state corporatist system. In Brazil there is no evidence that during the 1980s and the early 1990s a tripartite national-level co-operation was established in the country. There

were no signs of a concerted action in which national level unions and employers associations agreed with the state both on economic policy objectives and acceptable wage rises, for instance. It also cannot be called a pluralist system, as vaguely implied in Córdova's (1989) theory. In Brazil collective bargaining remains a supplementary regulation method of industrial relations. The state continues to be the major actor in industrial relations by enacting the substantial terms of the employment relationship and by keeping a measure of involvement in dispute resolutions through the workings of the Labour Courts. We know that there is no society in which the state refrains from regulating, at least to some extent, the employment relationship. We also know that from the mid- twentieth century onwards an increasing juridification of labour relations has occurred in the most industrialised societies. However, we can see that in Brazil the role played by the state was much larger compared to pluralist societies (such as Britain and the USA), and the role played by collective bargaining was much narrower. Finally, the Brazilian system also falls short from being characterised as a market individualism model due to the role played both by the state and by collective bargaining in the regulation of industrial relations.

I propose to label the industrial relations established in Brazil during the 1980s as a **statutory-bargained system**. This is no longer a type of corporatism. Since 1988 the state lost legal power to intervene in union internal affairs and workers' representative organisations became free to defend their members' interests rather than being committed to perform public functions. This model is characterised by a form of regulation of labour relations that combines two sources of employment rights, namely, the set of legal regulations of the substantive terms of the employment relationship and the rules established by unions and management through collective bargaining. The state establishes the basic standards of the employment relationship, while unions and

management, mainly through municipal-level negotiations, establish supplementary employment rights. The role of negotiation is chiefly the improvement of the legal standards and secondarily, the establishment of norms in areas not yet subject to legal regulations.

The role and the rationale of management and unions in the statutory-bargained system differ considerably from the period prior to 1978. Whereas in the past unions and employers associations were required to co-operate with government in promoting social solidarity, and in which the Labour Courts ensured that the parties complied with the law, throughout the 1980s they turned into bargaining institutions. The parties became concerned with maximising results through negotiations rather than solely expecting to win gains from the state, either through legal enactment or through the rulings of the Labour Courts. In the 1980s employer, and especially employee, representative associations were no longer required by law to give up their class interests. Rather, they began to function as interest groups whose main purpose was to win improvements or benefits for their members through collective bargaining.

The main limitation of my study derives from the geographical and sector boundaries, as well as from the period of time taken into consideration in this research. I now turn to consider first the extent to which we have evidence to suggest that had the study conducted in other parts of Brazil the results would have been replicated, and second whether similar developments have been observed in other parts of Latin America.

9.3 Putting things into perspective

In the first part of this section I argue that the conclusions of my study could be generalised to Rio Grande do Sul, and that during the period I took into consideration

they can be seen as an expression of the evolution of industrial relations in Brazil. I then speculate on the likely evolution of the system in the 1990s. In a subsection I make conjectures regarding whether or not the tendencies of evolution I have identified might fit into some pattern of evolution found in other regions of the world. I chose to focus my analysis on Latin American due to the similar historical, political and cultural background of the region.

I would like to state, at the outset, that there are very few studies concerned with the form of regulation of industrial relations in Brazil and Latin America and that there is even less evidence available. Among the few existent reliable Brazilian one can find the research by Horn (2003), by Carvalho Neto (2001), and by DIEESE (2001). I have not found any study similar to mine in Latin America. Although I was not able to adopt the same approach used throughout this thesis, I was able to advance some conclusions by focusing my analysis on of other type of indicators, such as the nature of the legal regulation and characteristics of the labour movement.

A study that offered some evidence that the conclusions of my thesis may be generalised to Rio Grande do Sul was written by (Horn 2003). This author analysed the evolution of the scope of collective agreements established by 17 bargaining units, of 10 different economic sectors in the manufacturing industry in the Greater Porto Alegre region, Rio Grande do Sul, between 1978 and 1995. One of the major findings of his research is that the significance of collective bargaining, expressed in the progress of the subject to the negotiations, increased considerably during that period. His conclusions support my finding in that the practice of collective bargaining developed not only in the sector I have analysed in detail, but also that it spread throughout other segments of the economy in the state. This leads me to affirm that it is likely that the progress of negotiations occurred during the 1980s and the 1990s throughout the state.

The next issue I am addressing here is whether my conclusions can be generalised to Brazil or, conversely, whether or not Rio Grande do Sul was an anomalous case in the country. Again I am facing the lack of studies and solid evidence on the evolution of collective bargaining. I ground my conclusions on the works of Aguirre (1985), IBGE (1991) and DIEESE (2001).

The research report of Aguirre (1985), though taking a narrow time period (from January 1982 to June 1984) into consideration, provides evidence of the practice of collective bargaining in the central areas of the country, namely in the states of São Paulo, Rio de Janeiro and Minas Gerais. Based on the analysis of collective agreements and arbitration awards collected in the files of the Ministry of Labour and of the Labour Courts Aguirre (1985: 10, 108-111) concludes that there is evidence of progress of the negotiations, compared to the late 1970s. This is indicated by the enlargement of the bargaining scope, which is, in turn, indicated by the introduction of new types of issues such as hiring and firing, over hours, health and safety at work.

The data drawn from IBGE (1991), provide evidence, collected in interviews with representatives of unions and employer associations in the country, on unions and their activities. The “Trade Unions: Social Indicators” (Sindicatos: Indicadores Sociais) statistics were meant to cover the whole universe of unions in the country⁵. The source however falls short from informing the reader about the precise coverage of the research.

In this publication we can find (some) information on whether unions and employers associations have undertaken negotiations with their counterparts, as well as on the way the disputes were solved. According to this source, in 1988, 3,210 unions (about one third of the total amount of unions in the country) reported occurrence of

⁵ Despite designed to be periodical publication, by the early 2000s only four issues were published: one in 1989, two in 1996 (both covering the 1988-1991 period), and the last in 2003 (with data of 2001).

28,031 negotiations. Although it is impossible to separate double counting cases, I have estimated that in the year of 1988 around 74.9 per cent of the cases were solved through conciliation, 16.6 per cent were solved through direct negotiations, and 8.5 per cent through arbitration. According to the same source, in 1991 the situation changed considerably compared to 1988. The IBGE 1996 publication shows that by 1991 the majority of the cases of labour disputes in the country were solved through direct negotiations (amounting to around 59.0 per cent of the total amount of cases). The relative participation of conciliation declined significantly, compared to 1988, reaching around 24.0 per cent of the total, and the participation of arbitration reached around 17.0 per cent of the total (Pichler 2002: 880). Summing up, the IBGE data show that not only unions and management had been negotiating with each other, but also that they had managed to increase their autonomy in relation to the state in dispute resolution over time. In my view, these data corroborate the assumption that the development of collective bargaining was not circumscribed to Rio Grande do Sul.

DIEESE (2001: 193-210) provided a third type of source of evidence that supports my assumption that the development of collective bargaining Rio Grande do Sul is not unique in the country. The analysis of the evolution of the subject of the negotiations held by ten different categories of workers, between 1979 and 1989, in the state of São Paulo, shows that the average number of clauses of collective agreements rose from 15, in 1979, to 62, in 1989.

The third issue I am addressing in this section concerns the likely evolution of industrial relations in Brazil during the 1990s and early 2000s. Here I use the outcomes of IBGE (2003), and of the researches of Carvalho Neto (2001) and of DIEESE (2001). According to IBGE (2003: 40, 163), in 2001, the amount of direct negotiations

amounted to around 80.3 per cent of the total amount of cases, while court cases⁶ (conciliation plus arbitration) amounted to 12.4 per cent. The rest (7.3 per cent) were cases not solved by the end of that year. We can see that during the 1990s there was an increase of 21.3 percentage points in the relative participation of direct negotiations in the whole amount of dispute resolution cases in the country. There are no state level data available and therefore I am not able to assess whether these figures could be applied to Rio Grande do Sul. This piece of information suggests that not only did the practice of negotiation continue to spread throughout Brazil during the last decade, but also that the parties became more independent from the state in dispute resolution over time.

The other two works I use provide information on the evolution of the scope of bargaining during the nineties. Carvalho Neto (2001: 122, 142-262, 266) carried out an extensive research on the evolution of the scope of the agreements established by seven categories of workers of the manufacturing industry in Minas Gerais, Rio de Janeiro and São Paulo between 1992 and 1999. He concludes that the selected categories of workers preserved the conquests of the early 1990s by the end of that decade and even managed to win a few more gains. This tendency of evolution of the bargaining scope is confirmed by DIEESE (2001: 193-210). According to this source, the average number of clauses of collective agreements negotiated by ten different categories of workers in the state of São Paulo remained stable during the 1990s, rising from 62, in 1989, up to 64, in 1999. As we can see, on the one hand, the parties managed to become more independent from the state however, on the other, they were not able to obtain further gains. The stabilization of the amount of clauses of the agreements suggests that no

⁶ The source does not specify the amount of conciliation and of arbitration.

significant change in the regulation of industrial relations has occurred during the last decade.

Another fact that supports this assumption is that few changes were introduced in the legal legislation of industrial relations during the 1990s. It should be stressed that the legal regulations of labour relations are established at the Federal level and that they apply to all states. There are no distinctive types of rules at the regional level. What could have varied from one state to another is the role of the judiciary. By this I mean that in one region the judges may apply the law more strictly than in another. But the labour judges are not allowed to change the spirit of the law. Therefore, we can assess whether or not the law has changed, and to what extent, by analysing the Federal legislation. During the 1990s and the 2000s, only limited alterations were introduced in the legal background established in 1988. The most relevant ones were made during the Cardoso administration (from 1994 until 2002). The new rules - established in 1998 (Law 9601) and in 2000 (Law 10101) - aimed at making the employment relationship more flexible by allowing the parties, through collective bargaining: (1) to fix annual working hour arrangements (called 'banco de horas'); (2) to hire temporary workers and part timers; and (3) to establish profit sharing schemes (Delgado 1998; Krein 2002; Pichler 1999a, 1999b; Toni 2004; Zylberstajn 2003). In my view it is likely that the legal changes, by making these issues mandatory, led to a further increase in the practice of collective bargaining.

The aforementioned evidence indicates that the practice of collective bargaining had spread in Brazil not only during the 1980s but also during the 1990s and the early 2000s. The data suggest, furthermore, that the role of collective bargaining in the regulation of industrial relations did not further develop in relation to the patterns prevailing in the early 1990s. This fact means, in my understanding, that the basic

mechanism of regulation of industrial relations established during the 1980s still prevails until today. Hence, we may conclude that even though my study is dated and circumscribed to the southernmost region of Brazil, its conclusions can be seen as an expression of a larger process that took place in the country during the 1980s. Furthermore, there are indications that suggest that there was no significant move away from the general patterns of labour relations I have here identified during the 1990s and the 2000s.

We have seen that there is evidence that Rio Grande do Sul is not an anomalous case in Brazil. The implication of this fact is that the overall conclusion of my study, which is that a new model of industrial relation was born during the 1980s, could be generalised to Brazil. Moreover, we have also seen that it is likely that no significant changes occurred in the statutory-bargained Brazilian system during the 1990s and early 2000s. The next issue I am addressing in this chapter is whether or not, and to what extent, the evolution of Brazilian industrial relations during the last decades was unique in Latin America.

9.3.1 Brazil and Latin America

This part is based on the analysis of the evolution of broader characteristics of the legal background in the different countries of Latin America. These are the issues most frequently found in the specialised literature. There is a lack of studies on the nature and on the evolution of regulation of industrial relations in Latin America. Therefore, in order to advance conclusions regarding the extent to which the Brazilian cases could be generalised, I assume that variations in the way industrial relations are regulated and its evolution through time are indicated, at least to some extent, by the character of legal labour regulations. For instance, based on theory (as well as on the

outcomes of this research), I assume that if state controls over unions are tightened, the opportunities for collective bargaining regulation decreases, and vice versa. I also assume that if unions become more autonomous in relation to the state and if unions are active and influent in a society, the opportunities for the development of negotiation increase, and vice versa. The aspects I am focusing on are the rules regulating: (1) individual labour relations (the substantive terms of the employment relationship), and (2) collective labour relations (union rights, collective bargaining and strikes). Whenever information is available, I will shed light on the character of the links between unions and the state since I assume that these links may affect the form of regulation of industrial relations. I am based on the pieces of Latin American literature that provide a broad overview of these aspects of labour relations in the region.

I start analysing the patterns of industrial relations prevailing in the region until the 1960s. Then I point out the phases of evolution that can be distinguished from then onwards. The 1960s and 1970s were marked by the rise of military regimes in the majority of Latin American countries. The late 1970s and the 1980s were marked by a process of political liberalisation, which occurred alongside the decline of the import substitution economic model, and the 1980s, and especially the 1990s, were characterised by a changing economic environment.

Prior to the 1970s, Brazil shared with the rest of Latin America extensive state intervention in the labour market regulating both the substantive terms of the individual employment relationship and working conditions, as well as the rules for the conduct of collective labour relations. Throughout the region individual workers were afforded with an extensive set of rights, which were embodied in labour codes (Bronstein 1995: 163-164; Córdova 1980: 236). According to Bronstein (1995: 165), collective labour relations were subjected to 'scrupulous monitoring by the state'. The authorities had the

power to intervene in union affairs exerting a measure of control over their policies and actions. The state also laid down controls over strike activity and on collective bargaining. Finally, in most Latin American countries the state entrusted the settlement of conflicts between the parties to tribunals in which a labour inspector or a member of the judiciary had the power to decide cases. Voluntary forms of dispute resolution were not stimulated or were undermined in practice (Bronstein 1995: 165; Córdova 1985: 32-234, 238-239, 33). These authors do not specify in which countries and if a type of corporatist arrangements was in place.

Some remarks regarding corporatism and the characteristics of the political regime prevailing during the period prior to the 1970s can be found in Toledo (2001: 9-12). The author maintains that, apart from Brazil, corporatist arrangements existed in Mexico, Venezuela, Argentina and Paraguay. It is not clear what type of corporatism was set up in these countries. It is also not clear what type of industrial relations prevailed in the other countries of the region. According to Toledo, in Uruguay, Chile, and Bolivia, unions were class-struggle-oriented⁷ (or antagonistic-class-types of unions). In the absence of further comments by the author on the subject, I assume that this means that workers' organisations were independent from the state in these countries. I also assume that what Toledo implies is that, in the last group of societies, corporatist arrangements did not exist. Finally, according to the same author, prior to the 1970s, a third type of group of countries could also be distinguished, which includes Peru, Bolivia, Colombia and Ecuador. In these societies, during different periods, there were corporatist arrangements while, in others an industrial relations system characterised by the existence of independent unions prevailed. Toledo also suggests

⁷ According to Toledo, the class-struggle-oriented unions ('sindicatos clasistas') were strongly influenced by Marxist ideology. They viewed the state either as their principal enemy or principal ally, depending on the general political context prevailing in the country (Toledo 2001: 10).

that the corporatist arrangements in Latin America prior to the 1970s, as in Brazil, were connected to the populist political regimes that were set up in the region during that phase.

Although Brazil had features in common with the rest of Latin America, in the period prior to the 1970s, one distinguishing feature could be noticed: the extent of the role of the state in industrial relations. According to Córdova (1980: 225-228) and Bean (1991: 208), it was the largest in the region. The consequence of the overwhelming presence of the state was the lack of development of collective bargaining. The same authors suggest that bargaining was significantly more developed (or, in their own words, that industrial relations were 'highly developed' or 'long established') in Mexico, Venezuela, Argentina, Chile and Uruguay. Due to the lack of further comments on this issue, I assume that this means that even though the role of the state was large in the last group of countries (which is a general characteristic in the region), it was not as extensive as in Brazil. Finally, the Brazilian system could also be distinguished from another group of societies (that included Ecuador, Honduras and the Dominican Republic) in which, in the view of the same authors, industrial relations were in a formative stage.

During the 1960s and 1970s, apart from Mexico, Venezuela, the Dominican Republic, Costa Rica and Colombia, in the rest of Latin America military regimes were established. The authoritarian governments changed the regulations of collective labour relations with a view of stepping up controls over trade unions and increasing the restrictions on strike activity and on collective bargaining (Bronstein 1995: 166-167). I assume that this led to a decline of the (already limited) role of collective bargaining in the regulation of industrial relations in the countries under military rule, as well as to an increase of unilateral management regulation.

Between the late 1970s and the early 1990s the authoritarian military regimes came to an end and, apart from Cuba, democracy was restored in the entire region. In Ecuador democracy was established in 1979, in Bolivia and Honduras in 1982, in Argentina in 1983, in Brazil and Uruguay in 1985, in Paraguay and Peru in 1989, and in Chile in 1990 (Bronstein 1995: 166-167). This period was also marked by the rise of the trade union movement. Workers actively participated in the struggle against authoritarianism. Some authors (Epstein 1989; Córdova 1985; Bronstein 1995; and Toledo 2001) point out that, as a result of these struggles, unions became not only more autonomous in relation to the state but also more influential in their societies.

The move towards higher levels of labour autonomy from the state was, however, not homogeneous. According to Epstein (1989: 275-289), there was a great deal of variation in Latin America⁸. This author built a labour autonomy index that took into consideration the number of general strikes called by unions, the total number of strikes per year, and the number of workers participating in strikes per year. He concludes that, by the mid- 1980s, the Brazilian labour movement enjoyed the highest level of autonomy in the region. The other countries in which high levels of autonomy (though not as high as Brazil, according to the author) were achieved were Argentina, Peru and Uruguay. Medium-low levels of autonomy were found in Mexico, Venezuela, Chile and Colombia. Finally, the lowest level of autonomy was found in Cuba.

The political liberalisation led to the revision of the legal regulation of industrial relations in almost all countries in Latin America, especially in regards to the aspects concerned with collective labour relations. In many cases, the new rules were introduced in the new Constitutions promulgated in the region. Apart from Brazil (which established a new constitution in 1988), this also occurred in Ecuador in 1978, in

⁸ The author analysed the evolution of labour autonomy in the following countries: Argentina, Brazil, Chile, Colômbia, Cuba, México, Peru, Uruguay and Venezuela.

Peru in 1979 and again in 1993, in Honduras in 1982, in El Salvador in 1983, in Guatemala in 1985, in Nicaragua in 1986, in Colombia in 1991, in Paraguay in 1992, and in Argentina in 1994 (Bronstein 1995: 169-170). The common ground of these revisions was the elimination of the authoritarian legacy of the military governments by restoring, improving and even extending union rights to other categories of employees (formerly excluded), such as public sector workers (Bronstein (1995: 169-173; 185). The end of the authoritarian political regimes and the restoration of union rights increased the opportunities for the practice of collective bargaining and it is likely that this favoured an increase of the role of negotiation in the regulation of industrial relations in the region.

In some countries the new constitutions revised and even improved the regulatory framework of the statutory individual employment rights. This was the case of Honduras, El Salvador, Guatemala and, especially, of Brazil. Bronstein (1995: 169-170, 185) maintains that in this set of nations the legislators were 'guarantee-oriented'. This means that, in addition to getting rid of the authoritarian legacy, the rulers were so generous, that in his view, they established more rights than 'the situation really allowed'.

The final decades of the twentieth century were marked by the decline of the import substitution economic model set up during the 1930s, by rapidly changing technical environment, by the increasing internationalisation of the economy of the world economy, and by the intensification of international competition. The highly competitive pressures of the increasingly global markets posed new challenges for firms. They were confronted with the need to improve their performance in terms of the costs and quality of their products. Employers responded to these pressures by adopting computerised and information technologies, by changing management styles and work

designs, and by introducing new forms of contracting and organising labour. These issues have been the subject of a number of authors such as: Beaumont (1990), Ben-Israel and Fischer (1994), Cotanda (2001), Fleury and Fischer (1987, 1989), Gallie and others (1998), Gregory (1993), Humphrey (1992, 1995), Lane (1989, 1995), Liedke (1988, 1992), Oscarsson (1993), Rojas (1987), Wood (1989, 1991), and others. These changes considerably affected the labour market leading to the rise of unemployment rates, to the emergence of non-standard forms of employment, such as part time work, temporary work and other atypical and precarious forms of work (Almeida 1990; DIEESE 2001; Fligenspan 2000; Pochmann 1999; Toni 2004; World Bank and IPEA 2002). It also led to the establishment of liberal economic policies with the view of promoting structural adjustments.

The changes in the economic sphere also affected the orientation of the state towards industrial relations in particular. Governments and employers became concerned with making the labour market regulations consistent with the needs of increased enterprise competition. The existent legal background in industrial relations was viewed as a straightjacket that negatively affected the administration of the workforce and of the market mechanism (Bronstein 1995: 167-168). Governments placed greater emphasis on enterprise competition and productivity. Structural adjustment programmes that entailed a reduced role for the state and cutbacks of public expenditure, an enhanced position of the market and a greater opening-up of the economy were launched (Bronstein 1995: 167).

In Latin America the changes in the economic environment had started already in the 1980s, a period marked by the decline of the import-substitution of industrialised goods model established in the 1930s. This phase was characterised by high economic volatility and stagnation, by an increase of income inequality, by low increases of the

Gross Domestic Product, by high inflation rates and by fiscal deficits (Dömeland and Gill 2002: 1). Throughout the 1980s, and especially during the 1990s, all governments in Latin America (with the exception of Cuba), adopted liberal economic policies expressed in: (1) privatisation programmes of state enterprises and functions (scaling down the role of governments in production); (2) reforms of social security institutions; (3) the easing of restrictions on capital flows within and across countries; and (4) land reforms (Gill and Montenegro 2002: 215).

The changing political and economic environments affected the prevailing state-union arrangements existent in Latin America. According to Morales (1993: 285-295), who describes the case of Mexico, and of Toledo (2001: 9, 12-23), the social and economical transformations led the existent corporatist systems to a crisis phase. In some cases, such as Brazil, at the end of the military political regimes, in which unions were deeply engaged, the corporatist arrangement was put into question and eventually it was eliminated. In other cases, however, such as Mexico, Venezuela and Argentina, the previously existent corporatist systems were revived and adapted to the new political and economic context of the 1990s.

The legal background of labour relations was also affected by the changes in the broader context. The labour reforms carried out in almost all countries in Latin America during the 1990s considerably varied in scope and character. In general, in the view of Gill and Montenegro (2002: 215-216), the revisions of the law were far less comprehensive than the economic reforms. They affected specifically the rules governing the individual labour contract, particularly job security issues (temporary contract legislation, severance payments, dismissals) and unemployment compensation (Dömeland and Gill 2002: 1-31).

According to Bronstein (1995: 169-171), Tokman (2004: 33-37) and Dömeland Gill and Montenegro (2002), in some countries, such as Venezuela (1990) and Dominican Republic (1992), the reforms were guarantee oriented. In other countries the legislators espoused the idea of flexibility, which was the case of Colombia (1990), El Salvador (1994), and Peru (1992). In these countries the rulers concerned with lowering labour costs, and with facilitating the hiring and termination of labour contracts (Bronstein 1995: 170-172; Dömeland and Gill 2002: 1-31). In a third group of countries limited changes were introduced in the law. This set includes Brazil, Costa Rica, Guatemala, Panama, and Uruguay. According to Tokman (2004: 33-37), in Brazil the law established that the introduction of flexibility in existent regulations must be subject to negotiations between unions and management.

In some countries, such as Chile (1990 and 1991) and Argentina (1991), the 'labour deregulation' approach adopted in earlier reforms was tuned down and the law was made more beneficial to workers. Finally, Mexico could be seen as a special case, since here economic modernisation and the changes in the labour legislation were subject to a tripartite negotiated pact in 1992 (Bronstein 1995: 171, 181).

Trade unions, adopted different approaches (and designed different strategies) in relation to technological and labour market changes, as well as in relation to the introduction (or the attempts of governments to introduce) liberal economic policies (Jose 2002: 1-19). According to this author, they started out resisting to globalisation however, over time, became more ready to accommodate to the new environment. In Latin America, according to Toledo (2001: 15-23), the antagonistic-class-type unions (which was the case of Chile, Bolivia, Uruguay and Brazil) were the ones that most resisted to the introduction of liberal policies. In the 1990s, however, in Chile and Bolivia, unions assimilated the liberal reforms and even gave their support to

government. In Brazil and Uruguay, however, unions continued to oppose these types of policies. The unions that were tied to the state through corporatist arrangements (which was the case of Mexico, Argentina and Venezuela) sought to adapt to the new environment more readily, struggling to maintain their alliance with the state.

In this section we have seen that the recent evolution of Brazilian industrial relations has features in common with the other countries in Latin America. The region was (and still is) marked by high levels of state interventionism in labour relations. This is expressed in the extensive legal regulation of the employment relationship existent in the area. After the 1970s, in most of the countries, the role of the state has declined somewhat especially in the area of collective labour relations. This fact could have led to the increase of the opportunities for negotiations. According to some authors collective bargaining seems to have won some ground throughout the region. The increase of the role of unions in the determining terms of employment indicates that changes in the nature of the regulation of industrial relations occurred in the countries of the region. Due to the lack of information, it is difficult to more accurately decide whether, and to what extent, they have become pluralist models, bargained corporatist models, or if they bore resemblance with the Brazilian statutory-bargained system established during the 1980s. Some of the differences (or similarities) between Brazil and the existing models in the region could be accounted to different state and union orientations towards industrial relations, as well as to the stronger or weaker ties linking state and unions in the different societies.

9.4 Future research

A first type of research could be the replication of the type of study I have undertaken in this thesis in Rio Grande do Sul during the 1990s and early 2000s with

the aim of assessing, more precisely, whether, and what and to what extent, the changes in the broader environment discussed in the former section have affected industrial relations. This type of study could also be replicated in other regions of the country with the aim of assessing common features and peculiarities of the evolution of labour relations in Brazil. The identification of patterns in labour relations in regions and economic sectors may help the establishment of comparisons with features of industrial relations in other countries. According to the literature (Ben-Israel, G.; Fisher, H. 1994; Oscarsson, 1993), the economic structural transformations of the last decades favour the diversification of local contexts. The authors maintain that the new developments have increased choice and opportunities for establishing alternative designs in company structures and management strategies. The evaluation of the peculiarities of industrial relations in the different economic sectors is still lacking in Brazil.

A second sort of issue that could be the subject of future investigation could be the assessment of the parties' behaviour in bargaining processes. These studies could be focused on the responsiveness of unions and employers' associations to the needs and interests of their respective members, as well as on their effectiveness in negotiations.

A third line of research may be concerned with the level at which collective bargaining has been undertaken. Has bargaining moved towards the plant level? What are the features of industrial relations at the company level? To what extent have labour-management relations changed within enterprises as a result of the introduction of new institutional and organisational arrangements in production systems? To what extent have (and what is the nature of) workplace level participation schemes been established? In Brazil there is also a lack of data on these subjects and, in particular, on work place industrial relations.

A fourth type of research could be the study of the evolution of industrial relations in Latin America. This type of work could identify patterns of regulation of labour relations prevailing in the region and assess tendencies of evolution through time.

The research suggested here may help to identify to what extent industrial relations have changed in Brazil and Latin America during the last decades and what the nature of these changes has been. These studies could advance scientific knowledge that may give support for planning union and employer actions, as well as for the design of public policies aimed at reforming labour relations with a view of promoting industrial democracy and industrial modernisation.

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APPENDIX ONE

CLASSIFICATION SCHEME OF THE BARGAINING SCOPE

I. TERMS OF EMPLOYMENT

The issues under this heading are concerned with the definition of the terms of the individual labour contract.

- Wages

This topic gathers several aspects concerning the payment of employees. It includes aspects such as adjustment rates, the method of payment (weekly, monthly, hourly), overtime rates, incentive payments, additional payments, deductions from wages and the conditions under which they may be made (Dunning 1985: 8-9).

- Hours of Work

This topic includes all issues concerning number of weekly working hours, time schedule, breaks, maximum number of overtime hours and other related aspects (Dunning 1985: 9).

- Paid Leave

Under this heading paid holidays and other forms of paid leave are considered: leave for the purpose of seeking alternative work under notice of termination of employment, paid educational leave, paid leave to go to the doctor, compassionate leave, paid maternity and matrimony leave, and others (Dunning 1985: 9-10).

- Social Security

The issues under this heading concern workers' protection against financial hardship on numerous occasions: sickness, accident, bereavement, unemployment, maternity, and others (Dunning 1985: 10).

- Security of Employment

This topic gathers the issues concerning the protection of employees against sudden termination of employment such as: period of notice of dismissal, re-engagement, payment in the event of redundancy (Dunning 1985: 10-11).

II. CONDITIONS OF WORK

This subject area includes the issues concerning the physical and mental conditions in which people work (Dunning 1985: 11). The conditions of work are broken down into three sub-groups of agreement provisions:

- The Working Environment

This topic includes aspects such as cleanness and ventilation of the place of work. It is also concerned with whether the work places are adequately lit and free from excessive noise, whether they are large enough for the number of workers employed, and whether they are protected against excessive fire, heat or cold. Protection of workers against the exposure to fumes, gases or harmful radiation and other issues are also included (Dunning 1985: 11-12).

- Prevention of Accidents

This topic gathers clauses concerned the elimination of possible causes of work accidents, the appointment of safety officers, the election of safety committees, the first aid facilities and other issues (Dunning 1985: 12).

- Welfare

Under this topic are considered forms of “indirect remuneration”. This type of clauses provide for partial substitute for direct pay. They include facilities for taking meals and refreshments, facilities for sport and recreation, enterprise-associated crèches and kindergarten, assistance of employers regarding housing,

periodical medical examinations for all workers, and others (Dunning 1985: 12-13, 23)

III. LABOUR-MANAGEMENT RELATIONS.

This group of issues concern a number of aspects such as:

- **Grievances**

These are clauses that provide for the treatment of grievances of individuals, as well as the procedures that should be taken in the event of differences between employers and workers as to the correct interpretation of the agreements (Dunning 1985: 16, 24).

- **Collective Disputes**

These are provisions for settlement of disputes that involve a number of employees such as: the obligation to refrain from direct action; conciliation; and arbitration (Dunning 1985: 17).

- **Administrative issues**

This topic covers a number of aspects ranging from activities around the immediate work area, including manning levels, allocation of work, the structure of workgroup and the manner in which the work is conducted. In addition, other aspects regarding the formal situation of employees, such as the clauses requiring managers to provide employees with promotions, certificates of payment and deductions, the establishment of day of payment, and other issues.

- **Training and Recruitment**

This topic gathers all clauses concerning training of the workforce as well as the aspects involved with the recruitment of employees.

- **Consultation**

This group concerns consultation schemes within enterprises such as the election by workers of members of consultative committee or council (Dunning 1985: 14).

- Participation

This topic gathers the clauses concerning the collaboration of employees in the decision-making process of running the enterprise, and the specification of the kinds of decisions that are subject to employee participation (Dunning 1985: 15)

IV. TRADE UNION ORGANISATION

This subject area includes all the issues affected to union organisation. It is broken down into three other subheadings:

- Union membership

This topic concerns the association of employees to trade unions.

- Dues check-off provision

This topic includes union dues, the trade union social tax, as well as the monetary contributions of employers to their associations.

- Union organisation

There are a number of provisions that come under this heading, such as the organization of employees' enterprise committees, the establishment of shop stewards, as well as a number of clauses concerning information of employers to the union (work accidents, investments, labour mobility). It also includes the right of the union directors to inform their members in the enterprises, as well as the right of union official to visit the work place.

V. DURATION AND ENFORCEMENT OF AGREEMENTS

Under this heading are gathered all clauses concerned with the duration and the re-negotiation of the current agreement, as well as penalties for those that do not

comply with the terms established in the agreements. It includes, furthermore, the recognition of the agreement and its coverage.

APPENDIX TWO

Table 37: Type of issues asked to the respondents

Issues	TU	EA	LC	ML	CA
Bargaining procedures					
Current procedures	●	●	●	●	●
Changes during the eighties					
Previous patterns	●	●	●	●	●
Changes	●	●	●	●	●
How and when did changes happen	●	●			
Causes of persistence and change	●	●	●	●	●
Perceptions and attitudes on					
State involvement in negotiations	●	●			
Present goals	●	●			
Evaluation other parties' attitudes	●	●	●	●	●
Evaluation of changes	●	●	●	●	●
Strategies and tactics	●	●	●	●	●
Bargaining style and strategies					
Current procedures					
System adopted to prepare demands	●				●
Negotiators	●	●			●
Phases of negotiations	●	●	●	●	●
Changes during the eighties					
Previous patterns	●	●	●	●	●
Changes	●	●	●	●	●
How and when did changes happen	●	●	●	●	●
Causes of persistence and change	●	●	●	●	●
Perceptions and attitudes on					
Present goals and strategies	●	●			●
Best bargaining pressure tactics	●	●			●
Counselling and training	●	●		●	●
Scope of negotiations					
Current procedures					
Demands and results	●	●			●
Groups covered	●	●			
Type of agreements	●	●			
Changes during the eighties					
Evolution of results and demands	●	●	●	●	●
How and when did changes occur	●	●	●	●	●
Causes of persistence and change	●	●	●	●	●

Table 37 - Continued

ISSUES	TU	EA	LC	ML	CA
Perceptions and attitudes on					
Present goals and strategies	●	●	●	●	●
Grievances	●	●	●	●	
Other issues					
Identification of respondent	●	●	●	●	●
Characteristics of institution	●	●	●	●	●
Health and safety measures	●	●		●	●
Dismissals and unemployment	●	●		●	●
Industrial actions	●	●			
Representation of trade unions in firms	●	●			
Participation schemes	●	●			
Innovations	●	●			
Access of trade unions to firms	●	●			

Legend: TU: trade unions

EA: employers' association

LC: Labour Court representative

ML Ministry of Labour's representative

CA: counselling agency representative

APPENDIX THREE

List of interview respondents

1. The trade union director of the Metal Trade Union of Porto Alegre (Sindicato dos Trabalhadores das Indústrias Metalúrgicas, Mecânicas e de Material Elétrico de Porto Alegre) and director of the regional section of the CUT Union Confederation (Central Única dos Trabalhadores):
2. The director and former vice president of the Metal Trade Union of Canoas (Sindicato dos Trabalhadores nas Indústrias Metalúrgicas, Mecânicas e de Material Elétrico de Canoas); he also was currently the director of the Regional Federation of the Metal Industry Workers in Rio Grande do Sul (Federação dos Trabalhadores nas Indústrias Metalúrgicas, Mecânicas e de Material Elétrico do Estado do Rio Grande do Sul);
3. The director of the the employer's Metal Industry Association of Canoas (Sindicato das Indústrias Metalúrgicas, Mecânicas e de Material Elétrico de Canoas);
4. The co-ordinator of the employers' negotiation commission of the Metal Industry Association of Rio Grande do Sul (Sindicato das Indústrias Metalúrgicas, Mecânicas e de Material Elétrico do Rio Grande do Sul).
5. The head of the judicial department and negotiator of the employers' regional industry association called Federação das Indústrias do Estado do Rio Grande do Sul (FIERGS), and of the Centre of the Manufacturing Industry of the State of Rio Grande do Sul (Centro das Indústrias do Estado do Rio Grande do Sul - CIERGS).
6. The director of the regional Metal Industry Workers Federation in Rio Grande do Sul (Federação dos Trabalhadores nas Indústrias Metalúrgicas, Mecânicas e de Material Elétrico do Estado do Rio Grande do Sul).

7. The president of the Regional Tribunal of Labour of Rio Grande do Sul (Tribunal Regional do Trabalho - TRT).
8. A class representative of the metal workers in the Regional Tribunal of Labour of Rio Grande do Sul and former director of the Metal Trade Union of Porto Alegre (Sindicato dos Trabalhadores das Indústrias Metalúrgicas, Mecânicas e de Material Elétrico de Porto Alegre);
9. Two representatives of the regional office of the Ministry of Labour (Delegacia Regional do Trabalho – DRT). One was the head of the Labour Relations Division (Divisão de Relações de Trabalho) and the other was the head of the Arbitration and Collective Bargaining Service (Serviço de Arbitragem e Negociação Coletiva) of the same institution.
10. The regional director of the Department of Inter Union Statistics and Social and Economic Studies of Rio Grande do Sul ('Departamento Intersindical de Estatísticas e Estudos Sócio-Econômicos' - DIEESE-RS).

Informal Interviews were held with two labour lawyers of Rio Grande do Sul, namely,

11. Márcia Mota (1993)
12. Délcio Caye (2003)

APPENDIX FOUR

Table 38 - Continued

Subjects	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
Unemployment						x	x	x	x	x	x	x	x	x
Payment monthly installments of FGTS						x	x	x	x	x	x	x	x	x
SECURITY OF EMPLOYMENT			x	x	x	x	x	x	x	x	x	x	x	x
No dismissal			x	x	x	x	x	x	x	x	x	x	x	x
Injured workers			x	x	x	x	x	x	x	x	x	x	x	x
Pregnant employees			x	x	x	x	x	x	x	x	x	x	x	x
Workers that will be retiring soon							x	x	x	x	x	x	x	x
Workers engaged in the military service			x	x	x	x	x	x	x	x	x	x	x	x
Redundancy payment			x	x	x	x	x	x	x	x	x	x	x	x
Indemnity payment workers in period of notice			x	x	x	x	x	x	x	x	x	x	x	x
Supplementary pay dismissal workers with disabilities						x	x	x	x	x	x			
Supplementary temporary pay workers fired without just cause						x								
Period of Notice									x					
Sixty days notice employees with more than 40 years, and five years in firm									x					
Dismissal of pregnant employees				x	x	x	x	x	x	x				
Pregnant employees may be dismissed				x	x	x	x	x	x	x				
CONDITIONS OF WORK	x	x	x	x	x	x	x	x	x	x	x	x	x	x
WELFARE	x		x	x	x	x	x	x	x	x	x	x	x	x
Uniforms	x		x	x	x	x	x	x	x	x	x	x	x	x
Uniforms provided without charge	x		x	x	x	x	x	x	x	x	x	x	x	x
Food and transport				x	x		x	x	x	x	x	x	x	x
Transport for workers								x						
Lunches for employees								x	x					
Prices of food and transport				x	x		x	x	x	x	x	x	x	x
Crèches								x						
Setting up crèches								x						
Health care								x			x	x	x	x
Setting up health care services								x						
Health care to husband of employees											x	x	x	x
Facilities										x	x			x
Improvements in restaurant										x				
Improvements in dressing room										x				
Installation of drinking fountain											x			
Installation of showers											x			

Table 38 - Continued

Subjects	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991
Trade union social tax	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Employers' association social tax	x	x	x	x	x	x	x	x	x	x	x	x	x	x
UNION ORGANISATION		x	x	x	x	x	x	x	x	x	x	x	x	x
Factory committees							x	x	x		x			
Setting up workers' run factory committee							x	x	x					
Rules for workers' run factory committee							x	x						
Appointment of factory committee members									x					
Election of shop steward											x			
Announcements					x	x	x	x	x		x	x		x
Union announcement boards in firms					x	x	x	x	x		x	x		x
Leave for workers' representatives							x							
Leave for workers' representatives							x							
Stability for workers' representatives		x	x	x	x	x	x	x	x	x	x	x	x	x
Temporary job stability for workers' representatives		x	x	x	x	x	x	x	x	x	x	x	x	x
Information								x	x	x	x	x	x	x
Companies inform unions on work accidents and diseases								x	x	x	x	x	x	x
Union power							x	x	x		x	x	x	x
Ratification of dismissals by the union									x		x	x	x	x
Union the legal representative of employees before firm							x	x	x					
Other		x		x					x					
Monetary contribution from firm to union		x		x					x					

Source: sample of agreements

Sample size (n) = 81 agreements.