



Creating Value in Adversity: An Integrative Negotiation Approach to Labor Conflict Resolution in Brazil

Luiz Henrique Saúde Dantas Cotrim

Fundação Getulio Vargas, Brazil

&

Murillo de Oliveira Dias

(DSc)Rennes School of Business, France

Abstract

This case study examines the negotiation process in a labor dispute between a union of public transportation companies and the Labor Public Prosecutor's Office (MPT) in southern Brazil. After being sentenced to pay collective moral damages, the union employed integrative negotiation techniques to reach a mutually beneficial agreement, allocating the payment to victims of floods in Rio Grande do Sul. The study highlights the effectiveness of collaborative negotiation in coping with underlying interests, resolving complex disputes, and creating value for all parties involved.

Keywords:

Type IV negotiation; Labor; Union; Disputes; Brazil

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1. INTRODUCTION

Finding mutually beneficial solutions can be a significant challenge in the complex landscape of labor disputes. This article addresses the negotiation in a high-stakes labor dispute between a union of public transportation companies and the Labor Public Prosecutor's Office (*Ministério Público do Trabalho* - MPT) in Rio Grande do Sul, southern Brazil. The case involved the allocation of amounts to the victims of the floods in Rio Grande do Sul.



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From April to May 2024, southern Brazil suffered the worst flooding in over 80 years. Heavy rains and storms hit the Brazilian state of Rio Grande do Sul and the adjacent Uruguayan cities of Treinta y Tres, Paysandú, Cerro Largo, and Salto. The flooding affected 2.3 million people, 472 municipalities (95% of the municipalities), the third Brazilian state in municipalities extension, resulting in 181 fatalities, widespread landslides, and a dam collapse (G1, 2025). The real names of the parties and the actual amounts involved were preserved for compliance and ethical, even humanitarian reasons. Since historic floods destroyed part of Rio Grande do Sul, causing losses of billions of dollars, public money has been mobilized for reconstruction and prevention works, but many actions have been stalled. Figure 1 shows the tragedy extension:

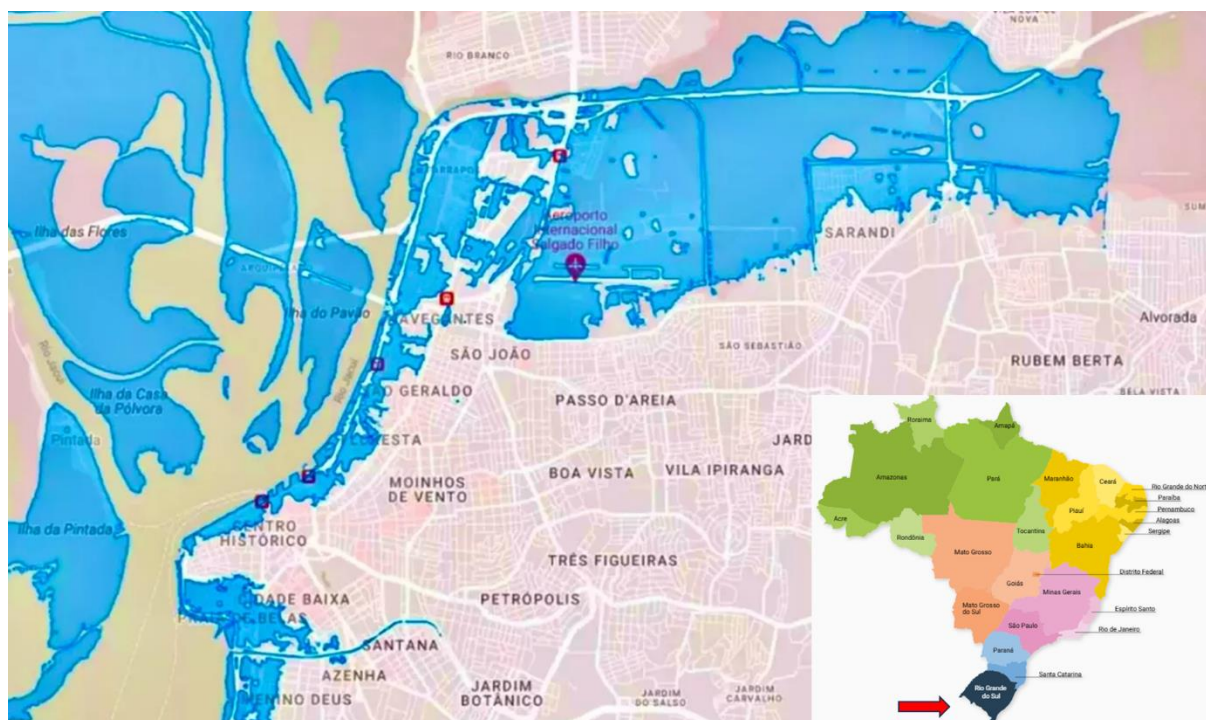


Figure 1 Flood extension in Rio Grande do Sul

Source: Metsul (2025) and Toda Materia (2025). All rights reserved.

The Labor Public Prosecutor's Office (MPT) sued a union of public transportation businesses and its employees for suspected court order execution fraud. The labor suit would involve collective moral damages, the union worked with the MPT to establish an arrangement to distribute the money to Rio Grande do Sul flood victims. The discussion was successful, enabling the MPT to fulfill its objective of providing money to impacted victims. Both parties engage in an Integrative, Type IV negotiation (Dias, 2020), where several parties negotiated multiple issues.

Negotiation has attracted scholars' attention over the past decades (Dias et al., 2023; Dias, 2023; Dias, 2023a; Dias, 2023b; Fisher, Ury & Patton, 1981; Kissinger, 1969; ; Lax & Sebenius, 1986; Navarro & Dias, 2024; Santos & Dias, 2024), and is defined as "a process in which individuals work together to formulate agreements about the issues in dispute. This process assumes that the parties involved are willing to communicate and to generate offers, counter-offers, or both." (Rubin and Brown, 1975, p.461).

Negotiation has been widely studied regarding different perspectives, such as (a) judicial reorganization (Vidaletti & Dias, 2025); (b) communication process (Acuff, 1993; Fisher, Ury & Patton, 1981; Lax & Sebenius, 1986; Salacuse, 2003, 2006; Shell, 2006); (c) diplomatic negotiations (Kissinger, 1969); (d) business negotiations (Delgado & Dias, 2025; Gasparini et al., 2025; Oliveira, Souza & Dias, 2025; Scheuer & Dias, 2025; Smejoff et al., 2025; Soliva & Dias, 2025; Valle, Trindade & Dias, 2025); (e) real estate negotiations (Lago, Amaral & Dias, 2025; Moura & Dias, 2025); (f) private equity negotiations (Côrrea, Santana & Dias, 2025); (g) M&A negotiations (Vidaletti, Ferreira & Dias, 2025); (h) Labor Claim Negotiations (Barros & Dias, 2025); (i) as alternative dispute resolution process (Zartman, 1988), amongst others. This article investigates a Type IV negotiations, following Dias (2020) in a large extent, as depicted in Figure 1:



Figure 2 The Four-Type Negotiation Matrix
Source: Dias, 2020. Reprinted under permission.

2. METHODOLOGY

This article employs a single case study approach—as described by Yin (2004)—to investigate the integrated negotiating process in a labor conflict involving the Labor Public Prosecutor's Office (MPT) between a union of public transportation firms and This study would be suited for a single case study approach as it enables a thorough examination of the negotiating process and results in a real-world setting. Based on a careful reading of all the documentation on the conflict and negotiation—including court records, negotiating transcripts, and agreements—the case study Drawing on ideas presented by Lewis et al. (2009) on interest-based negotiating and creative problem-solving, the study is directed by the framework of integrative negotiation. This study sheds light on the efficient use of integrated negotiating strategies in challenging labor conflicts using this framework applied to the case study.

3. BACKGROUND

The controversy began with the Public Ministry of Labor (MPT) filing a Public Civil Action against a Union of public passenger transport companies to investigate the alleged practice of

fraud in the execution and non-compliance with court orders. For context, it is important to mention that the Union in question was responsible for managing the electronic ticketing system in favor of the associated companies. This system allows bus tickets (standard tickets and transportation vouchers) to be acquired by inserting electronic credits into magnetic cards owned by the users, who use them to pass through the vehicle's turnstiles. In summary, it works as follows: the user/employer acquires the electronic credits, the card is loaded, and, when entering the vehicles, the user uses the card to pay the value of the ticket. The amount used is deducted from the credits existing on the card. The Union receives the amounts on behalf of the members and passes them on. The MPT alleged that the Union, when notified/summoned to comply with attachment orders against the associated companies, alleged that the said companies did not have receivables under the argument that it had entered into loan agreements with its members, with an advance on amounts that they would have to receive for the sale of tickets, and that, for this reason, the orders could not be complied with, attaching the aforementioned contracts. However, the MPT claimed to have verified that there was no proof that the amounts advanced through the loan agreements would have been effectively transferred to the companies and that, despite alleging the absence of credits, the Union continued to transfer amounts to the companies for the sale of tickets. Therefore, it filed a Public Civil Action to investigate fraud in execution allegedly committed by the Union and the associated companies involved in the face of the allegedly injured workers—who tried to execute the companies and were unsuccessful—and to obtain a conviction for collective moral damages.

4. COURT JUDGMENT

Ultimately, the integrative/collaborative negotiation has as its ultimate goal the agreement, not victory, as occurred in the case narrated, since the Union had already been condemned and had no chance of "winning," even accepting to suffer unilateral losses. In this case, the lawyers put themselves in the collaborative position of the MPT since both intended to finalize the process by allocating the amounts to the agreed-upon end. In addition, the negotiation was guided by the transparency that characterizes collaborative negotiations since the MPT was aware that it had already achieved its objective and could only wait for the judgment of the pending appeals to execute the original value of the updated conviction. Before the start, the Union's lawyers mapped the negotiation using the three-question technique. This technique identifies the parties' objectives (the Union itself and the MPT) and how to satisfy both interests. In this case, the point of convergence was that both parties wanted to finalize the process. In favor of the Union, the possibility of filing a lawsuit for rescission, which its representatives used to obtain greater bargaining power.

An important detail is that the negotiations took place while the State of Rio Grande do Sul was hit by major floods that affected millions of people and left thousands more without shelter and housing. In addition, during the process, the Union, without the knowledge of the MPT, made monthly payments in the case records until R\$ 2,800,000.00 (\$500,000) was reached.

5. NEGOTIATION FEATURES: ZOPA, BATNA, OPTIONS, AND INTERESTS

Zone of Possible Agreement (ZOPA) was established between R\$2,000,000.00 (the original value of the conviction, which the MPT indicated would be the minimum acceptable) and R\$2,800,000.00 (the amount that the Union had already collected in the records without the knowledge of the MPT), or \$350,000 to \$500,000.

Best Alternative to a Negotiated Agreement (BATNA): The alternative already established before the start of negotiations was the filing of an action for reversal to seek the unconstitutionality of the conviction based on procedural nullities initially identified by the Union's lawyers.

Options: The Union's options to achieve an integrative negotiation (value creation) were to offer an attractive value to the MPT, which was at least equivalent to the value of the conviction, to undo the original conviction that was mentioned in the part of the report, the existence of fraud in the execution; to withdraw the Interlocutory Appeal and the Appeal for Review pending analysis; ensure that all attachment orders issued from then on would be complied with, as long as the company had receivables; not using loan agreements to deny compliance with attachment orders because a particular company would not have receivables; submit to the payment of a fine in case of non-compliance; and, finally, that the agreed amount be allocated to the victims of the floods that occurred in Rio Grande do Sul.

Interests: The last point – the destination of the amounts – was essential for signing the agreement since the negotiations took place during the public calamity that hit Rio Grande do Sul. With this, the Public Prosecutor's Office could use the agreement to cooperate with the help of the victims and, in addition, disseminate this information to society.

6. FOLLOWING THROUGH: CLOSING THE DEAL

At the beginning of the negotiations, an obstacle was encountered: the MPT wanted the Union to commit to complying with any attachment orders. The Union, then, retreated since it would place itself in a highly vulnerable position since events could occur that would make it impossible to comply with some orders, such as, for example, the stoppage of the activities of some associated company, which would result, as a consequence, in the paralysis of the remittance of values; or, even, if several cumulative attachment orders would make compliance impossible due to the lack of sufficient credits.

Thus, the Union offered another solution: It would not use loan agreements to deny compliance with attachment orders—conduct that gave rise to the Public Civil Action—and all orders would be complied with as long as the company had credits, that is, as long as the company was remitting amounts to the Union for the sale of tickets. In addition, it suggested that annual reports be sent to the MPT that prove compliance with all attachment orders issued by the Judiciary against companies with sufficient credits to overcome the obstacle that arose, and that a fine be imposed for each non-compliance found.

Thus, in view of the MPT's acceptance and the alignment between the parties, the agreement was entered into in the amount of R\$2,000,000.00 (\$375,000), the original value of the condemnation, which was extremely advantageous for the Union, given that the amount would be much higher in case of updating. In addition, the sentence was dismissed, and the agreement did not mention the existence of fraud in the execution, which, if maintained, could cause immense damage to the Union and the companies. Finally, the agreed amount was allocated to the Rio Grande do Sul victims, and the remaining amount was returned to the Union.

9. IMPLICATIONS AND DISCUSSION

This case study has significant implications for labor conflict resolution, highlighting the effectiveness of integrative negotiation in creating value for all parties involved, even in complex and high-stakes disputes. By employing interest-based bargaining and creative

problem-solving, parties can find mutually beneficial solutions that address underlying interests and needs. The study demonstrates that integrative negotiation can lead to successful outcomes, such as allocating funds to victims of a public calamity while protecting the reputation and interests of the parties involved. Adopting an integrative negotiation approach can be valuable for resolving labor disputes collaboratively and constructively.

This case has implications in other research areas, including business scenarios, such as buyer-seller negotiations (Dias, Toledo, Silva, et al., 2022; Dias, Lafraia, Schmitz, et al., 2024; Dias, Pereira, Teles & Lafraia, 2023; Dias, Leitão, Batista & Medeiros, 2022); government trading (Navarro & Dias, 2024); contract negotiations (Cunha & Dias, 2021; Dias, Nascimento, et al., 2021; Dias, Toledo, Silva, Santos et al., 2022; Dias, Pires, et al., 2022; Dias, Almeida, Silva, Russo, et al., 2022); asynchronous negotiations (Santos & Dias, 2024); Family business negotiations (Dias, Pereira, et al., 2023; Dias, 2023; Dias, Pereira, Vieira, et al., 2023; Valente & Dias, 2023).

6. CONCLUSION

In conclusion, this case study illustrates the effectiveness of integrative negotiation in resolving complex labor disputes while creating value for all parties involved and addressing their underlying interests and needs. By utilizing interest-based bargaining and creative problem-solving, the union and the Labor Public Prosecutor's Office were able to reach a mutually beneficial agreement, which allocated funds to victims of the floods in Rio Grande do Sul. This study emphasizes the potential of integrative negotiation to transform adversarial relationships into collaborative ones, leading to successful outcomes and promoting constructive conflict resolution. In this case, considering the success of the negotiations and the context, there would be nothing that would be different in this negotiation, as the path taken by the Union representatives was the most appropriate for resolving the conflict. They used the appropriate techniques and integrative negotiation to create value and make the negotiation attractive to the MPT since they were in an initial position of disadvantage.

7. LIMITATIONS AND FUTURE RESEARCH

This study has some limitations. Firstly, it is based on a single case study, which may limit the generalizability of the findings to other contexts or disputes. Additionally, the study relies on available documents and records, which may not provide a complete picture of the negotiation process.

Future research could build on this study by exploring integrative negotiation in different contexts, such as other industries or countries. Comparative studies, longitudinal studies, and experimental designs could provide further insights into the effectiveness of integrative negotiation techniques. Investigating the role of cultural differences, multi-party dynamics, and other contextual factors could also contribute to the development of more effective conflict resolution strategies.

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