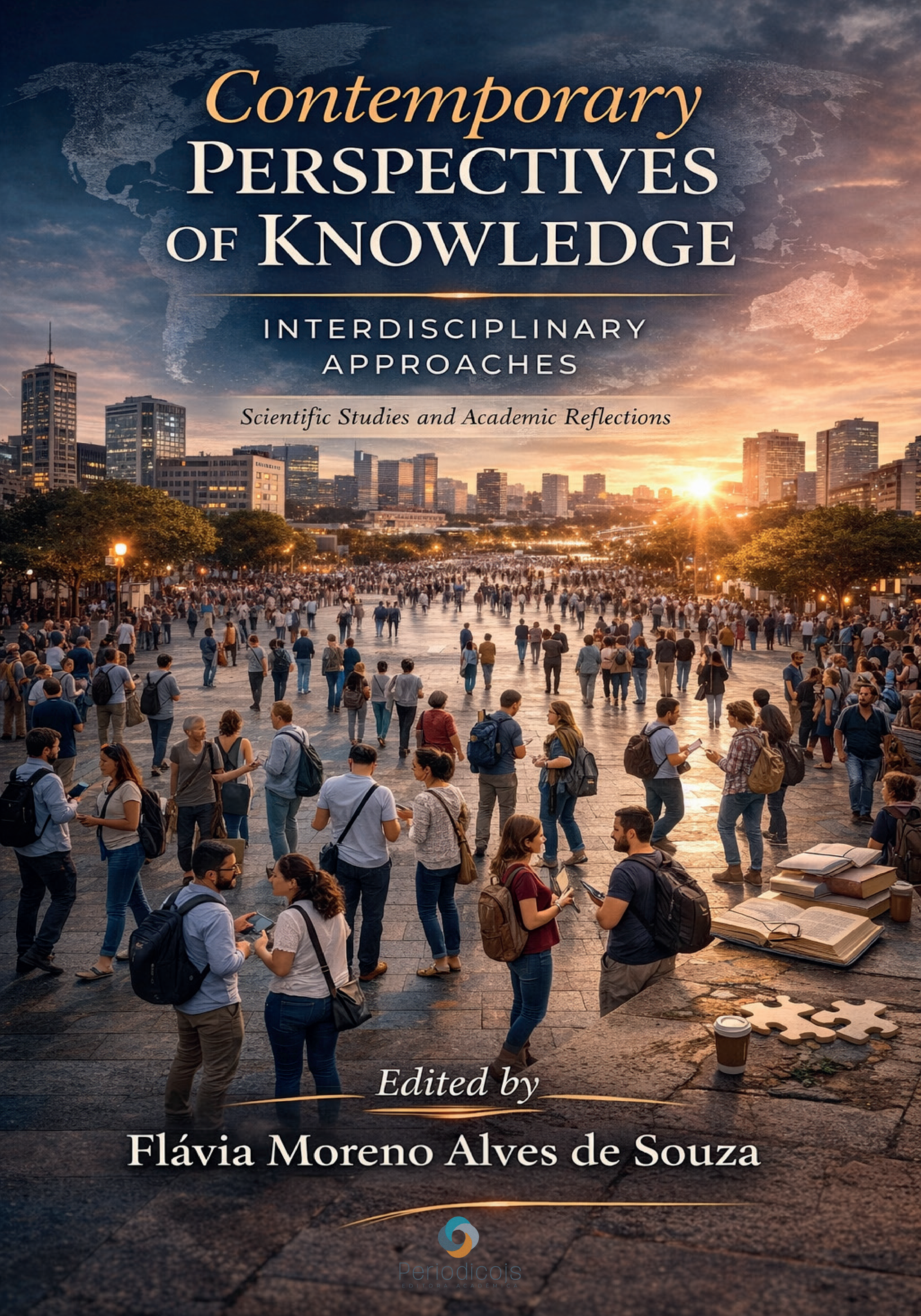

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Chapter 17

FROM LITIGATION TO COMPLIANCE ARCHITECTURE: THE RECONFIGURATION OF THE LABOR ATTORNEY’S PROFESSIONAL ROLE IN PREVENTIVE CORPORATE RISK MANAGEMENT

FROM LITIGATION TO COMPLIANCE ARCHITECTURE: THE RECONFIGURATION OF THE LABOR ATTORNEY'S PROFESSIONAL ROLE IN PREVENTIVE CORPORATE RISK MANAGEMENT

Ari Lopes Ribeiro[1]

Abstract: This chapter examines the transition of the labor attorney's professional role from a predominantly litigation-oriented practitioner to an architect of labor compliance focused on preventive corporate risk management. It argues that the traditional reactive model, historically justified by the structure of Brazilian Labor Law and legal education, has become insufficient in light of the increasing complexity of labor relations, the 2017 Labor Reform, the constitutional recognition of broad outsourcing, the growing relevance of ESG standards, and the digital transformation of organizational governance. Drawing on the theoretical contributions of Ulrich Beck, Anthony Giddens, Donald Schön, Pierre Bourdieu, and Parker and Nielsen, the chapter develops a conceptual framework that redefines the labor attorney as a professional responsible for designing, implementing, and continuously improving compliance systems capable of preventing labor liabilities and strengthening organizational governance. It discusses the competencies, instruments, and institutional challenges associated with this professional reconfiguration, emphasizing labor risk assessment, compliance auditing, governance structures, due diligence, and organizational culture. The chapter also argues that effective labor compliance must extend beyond employer risk mitigation by recognizing workers as active participants in compliance systems and by promoting the effective realization of labor rights. Finally, it proposes that labor compliance is emerging as an autonomous field of legal knowledge and professional practice, requiring interdisciplinary expertise and a preventive, risk-oriented legal rationality aligned with contemporary corporate governance and sustainable organizational

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The Dissonance Between Received Training and the World That Presents Itself

There is a question that is rarely asked in the hallways of law schools, in labor law offices and in the rooms of legal departments of Brazilian companies, but which imposes itself with growing urgency on those who observe the transformation underway in the practices of legal labor management: what is the labor attorney for, after all? The conventional answer is immediate — to defend the client's interests before the Labor Court, or to negotiate agreements that minimize the condemnations already decreed by the bureaucratic fate of the process. This answer, however, is increasingly insufficient. Not because it is incorrect, but because it describes only one of the possible dimensions of a professional function in profound reconfiguration.

The dissonance between received training and the world that presents itself is the starting point of this analysis. The labor attorney is trained, in almost its entirety, in a dogmatic-litigious model: they learn to interpret norms, to construct procedural theses, to argue before the judge. When they enter the market, however, they discover that the organizations that hire them need something different or, more precisely, something additional: they need someone capable of diagnosing risks before they become lawsuits, of designing controls that prevent the generation of liabilities, of communicating probability of financial exposure to the CFO and the Board of Directors. This dissonance is not accidental — it is the product of a training system that remains oriented to the past of a profession that is being called to operate in the future of organizations.

The central thesis of this chapter is that the labor attorney is being called to a process of reconfiguration of their professional role — an expansion and shift in focus that does not imply abandoning litigation, but which requires building upon it an entirely new repertoire: that of preventive labor risk management. This shift is not a mere update of tools or an addition of secondary technical competencies — it is a transformation in the way the jurist conceives their function, organizes their knowledge and produces value for organizations. As Donald Schön (1983) demonstrated in his analysis of reflective professions, the indeterminate zones of practice — those that are not resolved by the technical application of known rules — are precisely those that demand the greatest capacity for professional reconfiguration. Labor compliance is, in this sense, an indeterminate zone that is redefining what it means to be a competent labor attorney.

The context that makes this reconfiguration not only possible but necessary is well documented. Brazil maintains one of the most intense systems of labor litigiousness in the world: the National Council of Justice registered, for the base year 2023, approximately 3.7 million new labor lawsuits filed (CNJ, 2024). This volume highlights a structural paradox: the more the labor attorney succeeds in the reactive model — defending, appealing, settling — the more the organization accumulates costs that could have been avoided. Success in litigation is frequently the compensation for a prior systemic failure in the management of labor relations.

The Labor Reform of 2017 (Law No. 13,467/2017) and the subsequent recognition of the constitutionality of broad outsourcing by the Supreme Federal Court (ADPF 324 and ADC 48, judged in 2018) profoundly redistributed conformity risks among actors in the labor system, making obsolete the strategy of litigating case by case without a systematic prevention policy (Zenkner, 2019; Furtado; Saad-Diniz, 2022). In parallel, the emergence of ESG criteria in the capital markets converted labor compliance into a topic of direct interest for boards of directors, institutional investors and rating agencies (Prado; Martins Filho, 2021).

This chapter is structured in ten sections. It begins with the genealogy of the litigation paradigm, seeking to understand how and why it established itself as the dominant model. It then examines the structural insufficiency of this model in the post-reform context. Section four presents the foundations of the new risk-oriented legal rationality. Sections five and six describe the competencies, instruments and methods of the reconfigured labor attorney. Section seven analyzes the institutional and professional obstacles to transition. Section eight discusses the perspectives of labor compliance as an autonomous field. Section nine — incorporated in this version as a response to a pertinent editorial critique — addresses the dimension of workers' rights as active subjects of compliance. The chapter closes with final considerations.

The Litigation Paradigm: Genealogy of a Cognitive Model

To understand the reconfiguration being proposed, it is first necessary to understand what is being complemented and resignified. The labor litigation paradigm is not an aberration or a historical mistake: it is the logical result of a legal system, an organizational culture and a tradition of professional training that developed coherently over decades.

From a historical point of view, Brazilian Labor Law was born as a tutelary system: the CLT of 1943 was conceived as an instrument for protecting the economically vulnerable worker in the face of the economically superior employer. This originary asymmetry inscribed in the DNA of the labor system a presumption of conflict that permeates not only the substantive and procedural norms, but the very culture of the parties and their representatives. The labor attorney was historically trained — and socially positioned — as the agent of one of the faces of this conflict: sometimes as a defender of workers' rights, sometimes as a shield for the employer against the claims of the opposing party (Delgado, 2023).

The formative dimension of this model is equally relevant. The curriculum of Brazilian law schools, even after the 2018 National Curriculum Guidelines (Resolution CNE/CES No. 5/2018), maintains a predominantly dogmatic and litigious structure: legal education centers on the interpretation and application of norms, procedural technique, forensic rhetoric and the construction of arguments for dispute. The teaching of legal risk management, internal controls design, liability probability analysis or the elaboration of corporate conformity policies remains, when it exists, as a peripheral or elective discipline (Fragale Filho; Veronese, 2004; Ghirardi, 2012).

From an organizational point of view, the litigation paradigm was consolidated by the incentive structure that governs the relationship between corporate legal departments and law firms. For decades, the predominant remuneration model for external labor attorneys was a contingency fee proportional to the value of the judgment — which creates, structurally, an incentive for maximizing the volume of managed cases, not for minimizing them. At the same time, internal legal departments were historically evaluated by the cost and outcome of ongoing processes, not by the reduction in the flow of new disputes that would result from an effective prevention policy (Ribeiro, C.V., 2020).

This set of factors — tutelary historical heritage, dogmatic-litigious training, litigation-oriented incentive structure — produced what can be called the reactive grammar of Labor Law: a system of cognitive, practical and value-based references that defines the good labor attorney as one who deeply knows jurisprudence, masters procedural technique, knows how to build solid defense theses and negotiates advantageous agreements. This is an extraordinarily valuable professional. The problem lies not in what they do — it lies in what they frequently do not do: identifying, before the litigation, the conditions that make it probable.

The distinction between the two logics can be expressed precisely from the distinction that systems theory draws between maintenance and prevention: the reactive model is a maintenance system — it acts on failures that have already manifested; the compliance model is a prevention system — it acts on conditions that make failures probable. The analogy with medicine is instructive: no one doubts the value of the doctor who treats an established disease, but the most efficient health system is the one that invests in prevention, vaccination and early diagnosis, not only in intensive care. Brazilian Labor Law operated, until very recently, predominantly in intensive care mode (Cateb; Guzela, 2014).

The Structural Insufficiency of the Reactive Model in the Post-Reform Context

The critique of the reactive model is not new: it has existed, in different formulations, since at least the 1990s, when the first studies on organizational conflict management (Ury; Brett; Goldberg, 1988) demonstrated that litigation-oriented systems produce systematically higher costs than those generated by systems oriented towards prevention and interest resolution. What is new — and what justifies renewed attention to the theme — is the intensity with which the Brazilian normative and institutional context has made the reactive model not only suboptimal, but structurally unsustainable for medium and large organizations.

The first vector of unsustainability is the growing and multidimensional cost of labor litigation. The Brazilian Institute of Tax Planning and Research estimated, in 2023, that the total cost of labor litigation for Brazilian companies — including not only the condemnations, but legal fees, appeal deposits, monetary correction applied to condemnations (whose discussion, after ADC 58, established the application of the IPCA-E index), social security charges and the administrative costs of managing the stock of cases — represents a significant portion of the gross annual payroll in labor-intensive sectors (IBPT, 2023). The multidimensional nature of this cost — distributed between the legal, financial, human resources and accounting departments — frequently makes it invisible in management analysis, reducing internal pressure for preventive measures.

The second vector is the multiplication of risk sources arising from post-2017 normative changes. The Labor Reform significantly expanded collective bargaining autonomy, created new contractual models and recognized unrestricted outsourcing — but did so without eliminating the service taker's subsidiary liability, without revoking the majority of occupational health and safety regulatory standards and without creating effective protection for workers under new forms of contracting. The result is a superposition of new risks on a high-density normative base that remains in force, making the post-2017 labor compliance environment more complex, not simpler (Correia, 2021; Cassar, 2022).

The third vector is the constitutionalization of outsourcing risk. The STF's judgment in ADPF 324 and ADC 48, in 2018, confirmed the constitutionality of outsourcing core activities, but did not change the dominant jurisprudential understanding on the service taker's subsidiary liability.

Companies that extensively use outsourcing were exposed to labor liabilities arising from their service providers' defaults, whose measurement and control require compliance programs extended to the supply chain that go far beyond what the reactive model is capable of offering (Viana; Siqueira, 2022; Furtado; Saad-Diniz, 2022).

The fourth vector — and perhaps the most transformative from a systemic point of view — is the emergence of ESG criteria as a metric of corporate value. The growing adoption of sustainable disclosure frameworks by companies listed on B3, the pressure from institutional investors for integrated reports and the creation of sustainability indices such as the ISE B3 converted labor compliance into a component of organizations' financial risk assessment. A significant contingent labor liability, poorly provisioned or systematically underestimated, came to be read by ESG analysts as an indicator of governance vulnerability — with direct impact on the cost of capital (Leal; Sauerbronn, 2021; Prado; Martins Filho, 2021).

Faced with these four vectors, the structural insufficiency of the reactive model can be formulated precisely: the reactive model is one that, by its nature, only responds after the damage has been caused. In the current normative environment, the accumulation of disputes, infraction notices and accidents before any systemic organizational response generates liabilities that compromise the financial sustainability and reputation of organizations. The technically adequate response to this scenario is not to have more skilled litigation attorneys — it is to have compliance architectures capable of reducing the flow of events that generate litigation.

Foundations of a New Legal Rationality: Risk, Reflexivity and Conformity

The reconfiguration of the labor attorney's role is not only a change in professional practices — it is a change in the way of knowing, of organizing knowledge and of producing value from it. To understand this dimension, it is necessary to examine the theoretical foundations of the risk management rationality that structures compliance, mobilizing the social theory that illuminates the environment in which this transformation occurs.

The sociology of risk, developed especially from the works of Ulrich Beck (1992) and Anthony Giddens (1991), provides the broadest framework for this understanding. Beck demonstrated that contemporary societies — which he called "risk societies" — are not only more dangerous than their predecessors; they are different in their relationship with danger. Modern risks are, for the most part, institutionally produced — they are byproducts of the very economic and technological organizations that generate them —, and their most relevant characteristic is that they are invisible to immediate perception and only accessible through specialized mediation. In the labor field, this diagnosis has a direct implication: contingent liabilities of a labor nature are institutionally produced risks by organizations' own people management practices, and their identification and measurement require a type of mediating expertise that the reactive model does not offer — because the reactive model only sees the risk after it has materialized in a lawsuit.

Giddens, in turn, developed the concept of expert systems to describe the structures of specialized knowledge that mediate laypeople's trust in a world of complex risks. In labor relations, the expert systems are precisely the attorneys, auditors and compliance consultants who translate the normative density of the labor legal order into accessible and actionable language for organizational managers. The crisis in this trust system — when workers perceive that compliance exists only formally, without real substance — has direct consequences on the effectiveness of programs: it reduces employee engagement with whistleblowing channels, increases the propensity towards judicialization and undermines the culture of conformity that should sustain the system. Trust is, therefore, not only a moral value, but a functional variable of labor compliance.

Beck's social theory also illuminates the unequal distribution of labor risks among different groups of workers. The risks of unhealthy conditions, occupational accidents, non-formalization of the employment relationship and excessive working hours are not distributed randomly — they concentrate in the most vulnerable segments of the workforce: workers with lower educational levels, informal workers, platform workers and workers at the base of outsourcing chains. A labor compliance program that does not consider this unequal distribution of risks may, paradoxically, concentrate its controls in the most institutionally visible segments — the formal employees of corporate headquarters — and leave uncovered precisely the most vulnerable segments. The reflexivity that compliance requires is, therefore, also a reflexivity about who bears the risk in organizations.

In the specific field of Law and organizations, the regulatory compliance theory developed by Parker and Nielsen (2011) offers the most robust analytical framework. The authors demonstrate that the effectiveness of conformity programs depends not only on the existence of rules and sanctions — which is the presupposition of the reactive model —, but on organizations' capacity to internalize the normative purpose of rules, to build internal monitoring systems and to create cultures of legitimacy that make conformity a preference of organizational actors. This distinction between instrumental compliance (oriented towards sanction avoidance) and normative compliance (oriented towards value internalization) is central to the design of effective programs and for understanding why so many formally existing programs produce no real results.

The result is the phenomenon that Krawiec (2003) called cosmetic compliance: an appearance of conformity that does not produce real change in organizational practices. In the field of organizational theory, this phenomenon finds explanation in Bourdieu's field theory (1980), especially in the concept of habitus: organizations have incorporated operating dispositions that resist change even when there are formal rules that require it. A compliance program that does not dialogue with the organizational habitus — with daily practices, informal hierarchies, internal recognition systems — will have difficulty producing real conformity, because genuine conformity is always a cultural achievement before it is a normative obligation.

The epistemological dimension of the proposed reconfiguration can be formulated in three articulated axes. The first is the substitution of the case logic by the process logic: the litigation attorney thinks in singular judicial cases; the compliance architect thinks in systemic organizational processes — each people management practice is a variable whose behavior over time determines the flow of liabilities. The second axis is the substitution of past logic by future logic: litigation deals with consummated facts and technical skill consists of narrating those facts in a manner favorable to the client; compliance deals with possible futures and technical skill consists of identifying present conditions that, if not altered, will make those futures probable. The third axis is the substitution of litigation language by risk language: litigation speaks in claims, petitions, theses, condemnations and appeals; compliance speaks in vulnerabilities, exposures, probabilities, impacts and controls.

These three displacements — from case to process, from past to future, from litigation to risk — configure the core of the professional reconfiguration this chapter examines. They demand from the professional a profound reorganization of their way of reading the legal environment, of formulating questions and of structuring responses — and, therefore, new competencies that are not acquired merely by the accumulation of litigation experience, however extensive and sophisticated that may be.

The Labor Attorney as Compliance Architect: Competencies, Tensions and Identity Repositioning

The metaphor of the architect, which guides the title of this chapter, is deliberate and productive — but it needs to be examined in its limits, not only in its virtues, so that it guides the analysis of the new professional role with precision.

The architect does not build the structure with their own hands — they design the structure that others build, specifying materials, dimensions, loads, foundations and interactions between systems. They work with multiple simultaneous constraints: technical standards, budget, functionality, aesthetics and deadline. Their product is not a one-off intervention, but an integrated system that needs to function coherently over time. And they are responsible not only for what is visible on the surface, but for the foundations that sustain everything. In this sense, the metaphor captures well what labor compliance requires from the attorney: not individual intervention in each case, but the design of the conformity system that prevents the generation of cases.

There is, however, an important limit in the metaphor that deserves to be made explicit: the architect ends their function with the delivery of the design. Labor compliance, on the contrary, does not end with the implementation of controls — it requires continuous monitoring, permanent oversight, normative updating and correction of deviations that arise in the real functioning of the system. In this sense, the role of the compliance architect is closer to the urban planner than to the building architect: the urban planner not only designs a construction, but plans and monitors the functioning of a living system in permanent adaptation, which responds to changes in the normative, economic and human environment that surrounds it. Labor compliance is precisely this living system — and its sustainability depends on a professional who combines the vision of the architect with the resilience of the urban planner.

Understood in its precise contours, the position of architect-urban planner of labor compliance implies a set of competencies that clearly differ from those of litigation advocacy. The first is mapping and diagnostic competency: the capacity to carry out conformity audits that systematically and hierarchically identify the legal-labor vulnerabilities of an organization. This competency requires not only knowledge of norms — it requires the capacity to read organizational processes, to interview managers, to analyze payroll data and to interpret occupational medicine reports. It is an organizational diagnostic competency that is not found in any law school curriculum (Robortella, 2019; Melo; Rodrigues, 2021).

The second competency is controls design: the capacity to transform the results of the diagnosis into policies, procedures and monitoring systems that systematically reduce the probability of occurrence of the identified risk events. This competency requires knowledge of process management, organizational design and information technology — especially with regard to eSocial, time management systems and documentary management platforms for labor obligations (Ferreira; Costa, 2020).

The third competency is interdisciplinary communication: the capacity to translate the legal concepts of labor compliance into the languages of other organizational managers — financial, operational, human resources and technology — and to articulate the logic of legal risk with the logics of financial, operational and reputational risk. This competency is fundamental because labor compliance only produces results when integrated into corporate strategy, which requires the attorney to dialogue with the CFO about contingent liabilities and provisions, with the COO about operational processes that generate working hours risk, and with the Board of Directors about ESG indicators.

The fourth competency is governance and culture: the capacity to design compliance governance structures — committees, reporting flows, risk escalation mechanisms, whistleblowing channels, training programs — and to contribute to the construction of an organizational culture in which conformity is perceived as a value and not merely as an obligation. Tyler and Blader (2005) demonstrated that the internal legitimacy of conformity programs — employees' perception of procedural justice — is a critical mediating variable of their effectiveness, which implies that the compliance architect needs cultural management competencies that transcend legal expertise.

The identity tension that accompanies this reconfiguration should not be minimized. The labor attorney carries a professional identity strongly constituted around litigation expertise: mastery of jurisprudence, procedural skill, capacity for forensic argumentation. This identity is valued by the market, recognized by the Bar Association and remunerated in a growing manner with experience. Proposing that this professional reposition themselves as a compliance architect is proposing a reconfiguration of this identity that implies, at least initially, the admission of an incompetence: "I do not know how to do what needs to be done in this new role." This admission is psychologically costly and socially risky in a profession organized around the demonstration of competence — which Schön (1983) identified as the main obstacle to reflective learning in the professions.

The Transition in Practice: Instruments and Languages of the New Role

The professional reconfiguration being proposed does not occur in an abstract form — it materializes through the progressive incorporation of instruments, methods and languages into the labor attorney's repertoire. Without the pretension of describing an operational manual, this section examines the main instruments of this transition as concrete expression of the epistemological displacement described in the previous section.

The inaugural instrument is the labor conformity audit — the systematic diagnosis of people management practices in the face of obligations of the applicable legal-labor order. What differentiates this instrument from litigation practice is not only its prospective character, but its language: each non-conformity is translated in terms of probability of liability generation, magnitude of potential liability and correction cost. This language allows the attorney to communicate results to decision-makers in a way that connects legal conformity to financial management — making labor compliance comparable to and competitive with other organizational investments. A potential liability of R$ 500 thousand correctable for R$ 50 thousand in process adequacy has an investment return of 1:10, an argument that no reasonable CFO can ignore (Melo; Rodrigues, 2021; Garcia, 2020).

The system of labor risk indicators (KRIs — Key Risk Indicators) is the second central instrument of the transition. In the same way that financial management operates through indicators that anticipate trends, labor compliance operates through signals that anticipate the probability of liability generation: turnover rates by reason for dismissal, frequency of overtime by department, number of absences due to occupational diseases, conversion rate of internal complaints into external labor lawsuits. The construction and monitoring of these indicators transforms labor risk management from reactive to prospective — and transforms the attorney from a case operator to a trend analyst (Ferreira; Costa, 2020; Alcantara; Machado, 2022).

Labor due diligence in the supply chain constitutes the third instrument of greatest strategic relevance in the post-ADPF 324 context. It is not a one-off documentary verification procedure — it is a continuous system of monitoring the labor practices of service providers, which includes periodic documentation analysis, field audits and contractual clauses conditioning the renewal of contracts on compliance with minimum conformity standards (Viana; Siqueira, 2022; Alkimim; Amaral, 2020). Negligence in this instrument has converted purchasing organizations into co-responsible parties for labor liabilities of their suppliers in amounts that no reactive system could absorb without relevant patrimonial impact.

What these three instruments have in common — and what collectively distinguishes them from litigation instruments — is that all of them operate before the damaging event, not after. Together, they constitute the practical language of the new legal rationality described in section 4: a language of possible futures, of probabilities and of prevention architectures. Mastering this language is the entry condition for the new role that the market is calling the labor attorney to occupy.

Institutional Obstacles and Professional Resistance to Transition

The professional reconfiguration being proposed encounters resistance that is simultaneously institutional — inscribed in the structures of the legal field and the legal services market — and professional — rooted in the identities and incentive systems of labor attorneys. Understanding these resistances is a practical condition for the transition to be carried out deliberately and effectively.

The first institutional resistance is the remuneration structure of the labor advocacy market. The contingency fee model linked to the value of the condemnation — still widely adopted in external labor advisory contracts — structurally disincentivizes investment in prevention: the attorney who reduces the volume of their client's cases simultaneously reduces their own remuneration. As long as this model remains dominant, the migration to compliance will encounter direct economic resistance. The transition requires new contracting models — fixed fees per compliance program, monthly retainers for risk management, project fees for audits — that remunerate the preventive result and not the litigation result (Ribeiro, C.V., 2020).

The second institutional resistance is the assessment structure of internal legal departments. In many organizations, the legal department is evaluated exclusively by litigation performance — success rate, average cost per case, average closing time. This metric, when exclusive, renders the impact of compliance invisible: the reduction in the flow of new cases simply does not happen, and no one sees what did not happen. The transition requires the construction of labor compliance performance metrics — reduction in case flow, reduction in administrative infraction notices, reduction in contingency provisions, improvement in ESG indicators — that make the value of preventive work visible and measurable.

The third institutional resistance is the curricular organization of law schools. As noted in section 2, Brazilian legal education is predominantly dogmatic and litigious. Resolution CNE/CES No. 5/2018 created normative openness for curricular changes that include competencies in management and preventive legal advisory, but did not make them automatic. The incorporation of disciplines in legal risk management, organizational design and conformity auditing will face resistance from academic councils predominantly composed of professors trained and recognized for dogmatic production (Ghirardi, 2012).

At the level of professional resistances, Bourdieu (1980) offers the most precise framework. The professional habitus of the labor attorney is a system of dispositions incorporated over years of training and litigation practice: the tendency to frame problems as disputes with adverse parties, to seek arguments and not diagnoses, to construct narratives and not systems. This habitus is, at the same time, an extraordinary resource for litigation and an obstacle for compliance. Overcoming these obstacles requires not only technical training in new instruments, but a deliberate work of reflexivity on one's own professional automatisms — what Schön (1983) called "reflection-in-action" — which constitutes the essence of transformative professional practice.

The most subtle resistance — and perhaps the deepest — is the one arising from the perception that labor compliance "is not Law." This perception reflects a narrow conception of legal knowledge: only the norm, doctrine and jurisprudence would be properly juridical; process management, controls design and data analysis would belong to administration or accounting. This conception is epistemologically mistaken and professionally self-destructive: it abandons to the field of business consulting a practice space that can only be adequately occupied by someone with deep mastery of the legal-labor order — and which, therefore, rightfully belongs to the attorney.

Perspectives: Labor Compliance as an Autonomous Field of Knowledge and Practice

The analysis developed in the previous sections allows us to formulate an additional thesis: labor compliance is in the process of constituting itself as an autonomous field of knowledge and professional practice, with its own concepts, methodologies, instruments and communities of practice. Understanding this autonomization process is fundamental for anticipating the training and professional organization demands that will derive from it.

For Bourdieu (1980), a professional field constitutes itself when there exists a set of specific objects and problems, agents with differentiated positions who compete for the specific capital of the field, recognized training and certification institutions, and a set of practices and languages that demarcate the field's boundary in relation to adjacent fields. Labor compliance displays, in 2025, progressive signs of autonomization in all these dimensions.

From the point of view of specific objects, labor compliance has a set of problems that are its own: the measurement and anticipatory management of contingent liabilities of a labor nature, the architecture of internal labor conformity controls, the governance of the supply chain from the perspective of labor obligations, the integration of labor conformity indicators with ESG frameworks. These problems require the combination of legal, accounting, risk management and organizational expertise in a way that none of these fields, in isolation, is capable of offering.

From the point of view of knowledge production, Brazilian literature on labor compliance exhibited, in the period 2010 to 2025, an expressive growth curve — with a peak of publications from 2017, as demonstrated by an integrative review of the period's literature (Ribeiro, A.L., 2025, forthcoming). Works such as those of Zenkner (2019), Robortella (2019), Melo and Rodrigues (2021) and Furtado and Saad-Diniz (2022) established the first theoretical landmarks of the field. Dissertations and theses on the subject have multiplied in graduate programs in Law and Administration. Specialized journals — the Revista LTr, the Caderno de Direito e Políticas Públicas, the Revista de Direito do

Trabalho — began regularly including special issues on labor compliance.

From an institutional point of view, the autonomization of the field is still at an incipient stage. There is, until the present, no specific professional certification for the labor compliance officer — unlike anti-corruption compliance, where ABNT NBR ISO 37301:2021 and the integrity programs provided for in Decree No. 11,129/2022 created normative references that structure a certification market. The creation of a specific certification for labor compliance — developed, for example, by the Brazilian Bar Association in partnership with the Ministry of Labor and professional human resources associations — would be a significant step in the consolidation of the field as an autonomous and regulated professional space.

From the point of view of trends that will shape the field in the coming years, three deserve special attention. The first is digitalization: the expansion of eSocial, the consolidation of biometric electronic time systems and the use of artificial intelligence for payroll conformity monitoring are creating a digital ecosystem that radically transforms what is possible to do in the field of labor compliance — while at the same time creating new obligations under the LGPD regarding workers' personal data (Pinheiro, 2021).

The second trend is internationalization. Global supply chains subject to human rights due diligence norms — such as the German Supply Chain Due Diligence Act (Lieferkettensorgfaltspflichtengesetz, in force since 2023), the European Corporate Sustainability Due Diligence Directive (CSDDD, approved in 2024) and the labor compliance requirements imposed by free trade agreements — are exporting labor compliance demands to Brazilian companies that integrate these chains as suppliers. The professional in the field will need to dialogue with international frameworks of human rights at work and with the UN Guiding Principles on Business and Human Rights (Ruggie, 2008).

The third trend is the integration of labor compliance with artificial intelligence in labor relations. The use of algorithms for performance management, for defining working hours, for candidate selection and for productivity monitoring creates new vectors of risk of discrimination, privacy invasion and violation of labor rights that traditional compliance is not equipped to manage. The elaboration of policies for ethical use of AI in labor relations is emerging rapidly as a sub-field of labor compliance.

The Worker as an Active Subject of Compliance: The Rights-Realization Dimension

A significant gap in Brazilian literature on labor compliance — and one which this chapter proposes to address — is the tendency to treat workers exclusively as passive recipients of conformity programs, or, worse, as potential claimants whose lawsuits compliance seeks to avoid. This perspective is, at the same time, analytically incomplete and problematic from the point of view of the values that should guide Labor Law.

From an analytical point of view, the most sophisticated international literature on regulatory compliance — and especially Parker and Nielsen's (2011) research on the effectiveness of conformity systems — consistently demonstrates that compliance programs are significantly more effective when workers actively participate in their implementation and functioning. This participation operates in at least three dimensions. The first is the early identification of non-conformities: workers are frequently the first to perceive irregular practices in working hours, occupational health and safety, harassment and remuneration — and their willingness to report these practices through whistleblowing channels depends directly on the trust they place in the system, trust that, in turn, depends on the perception that the program genuinely serves their interests and not only those of the organization. The second dimension is the cultural legitimization of the program: when workers perceive compliance as a system that protects their rights — and not merely as an employer risk management mechanism —, their adherence to policies and procedures is substantially greater, reducing the need for coercive controls and increasing the long-term sustainability of the program. The third dimension is the continuous improvement of controls: workers who carry out daily activities have situated knowledge about real working conditions that external auditors rarely capture — their involvement in the compliance program review cycle is an irreplaceable source of information for the improvement of controls.

From the point of view of values, labor compliance that is oriented exclusively by the logic of reduction of employer liabilities runs the risk of instrumentalizing labor rights — treating them as threats to be neutralized, and not as historical achievements to be realized. This instrumentalization is not only ethically problematic; it is also counterproductive from the point of view of results: compliance that workers perceive as a control mechanism and not as a protection mechanism tends to generate distrust, inflate the rate of non-reporting of irregularities and, paradoxically, increase the propensity towards judicialization when the worker finally decides that the internal system does not serve their interests.

The reconfiguration of the labor attorney as compliance architect implies, therefore, a responsibility that goes beyond the management of employer risks: the responsibility of designing conformity systems that effectively realize workers' rights, that promote safe, dignified and respectful work environments, and that build labor relations in which conformity is experienced by workers not as surveillance, but as protection. This is the deepest meaning of labor compliance as a corporate governance instrument: not the minimization of liabilities, but the construction of organizations that honor, in daily practice, the normative commitments that the Brazilian legal-labor order expressly establishes.

In this sense, the labor compliance architect should not be seen only as the technical operator of a risk management system — but as the professional who, in designing and sustaining organizations' conformity programs, contributes to the material effectiveness of Labor Law. The advancement of labor compliance in Brazil will be all the more legitimate and sustainable the more it distances itself from the cosmetic logic described by Krawiec (2003) and approaches the normative logic that Parker and Nielsen (2011) identified as a condition of real effectiveness: compliance as an expression of genuine organizational values, and not as a performance of conformity for external consumption.

Final Considerations

The professional reconfiguration of the labor attorney as a compliance architect is not a passing trend in the legal market nor an external imposition on the profession: it is a necessary and productive response to structural transformations in the normative, economic and institutional environment in which Brazilian organizations operate. Brazil's structural labor litigiousness, the redistribution of risks promoted by the 2017 Reform, the constitutionalization of outsourcing, the emergence of ESG criteria as parameters of corporate value and the accelerated digitalization of labor relations created a scenario in which labor compliance ceased to be a competitive differentiator and became a condition for organizational sustainability.

The central thesis developed in this chapter synthesizes into three propositions. The first is that the litigation paradigm, although historically and functionally justified, has become structurally insufficient for the legal-labor management demands of contemporary organizations. The point is not to abandon it — the litigation labor attorney will continue to be necessary and valuable —, but to recognize that it resolves only one part of the problem: the reparation of damages that have already occurred. The prevention of future damages requires a different architecture, and it is this architecture that the new professional role is called to design and sustain.

The second proposition is that the reconfiguration from litigation to compliance is genuinely epistemological in the sense of a profound reorganization of the ways of knowing and of producing value: it shifts the focus from case to process, from past to future, from litigation to risk. As demonstrated by the dialogue with Beck (1992), Giddens (1991), Schön (1983) and Parker and Nielsen (2011), this reorganization implies a work of reflexivity on one's own professional automatisms that is simultaneously intellectually demanding and identity-challenging — and which requires deliberate investment in training, in accumulated experience in the new role and in communities of practice that legitimize the new repertoire.

The third proposition is that labor compliance is in the process of constituting itself as an autonomous field of knowledge and professional practice — with specific objects, growing knowledge production, institutionalization demands and prospects of accelerated internationalization. A fourth proposition is added to these, incorporated in this version of the chapter as a response to a pertinent editorial critique: the effectiveness and legitimacy of this field depend on labor compliance being conceived not only as an employer risk management instrument, but as a system for realizing workers' rights — a system in which they are active subjects, not passive objects of corporate policies.

The history of the legal professions is full of moments in which the appearance of new problems required the reconfiguration of old roles. The tax attorney was born from the encounter between Law and the fiscal complexity of the modern State. The data protection attorney was born from the encounter between Law and the digital revolution. The labor compliance architect is being born now from the encounter between Labor Law and the new economy of risk, governance and sustainability. Those who understand the depth of this reconfiguration — and not only its technical dimension, but its ethical and epistemological dimension — will be in a position to lead the construction of this emerging field.

This chapter is positioned, in the collective work of which it is a part, as a contribution to the reflection on the conceptual and identity foundations of labor compliance — complementing the chapters that address its normative, instrumental and sectoral aspects. Dialogue between these perspectives is the condition for the field to consolidate itself with the theoretical solidity and ethical responsibility that its growing practical relevance requires.

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