Broken commitments and unfulfilled expectations

An explorative study of Swedish Labor Court cases

Charlotta Stern
Linda Weidenstedt
Broken commitments and unfulfilled expectations: An explorative study of Swedish Labor Court cases

Charlotta Stern¹ & Linda Weidenstedt
The Ratio Institute & Stockholm University, Sweden

Abstract

Little is known about what lies behind serious relational conflicts in the workplace. In this paper, we analyze conflicts emanating from perceptions of broken commitments and unfulfilled expectations as they appear in the Swedish Labor Court. Sweden is a highly regulated and formalized labor market, with high levels of unionization and collective agreement coverage. Yet in a social setting ripe with formal rules and regulation such as this, what role do informal promises and expectations have? The empirical material for this study consists of a sub-set of two years of Labor Court decisions dealing with situations where mutual consent of what has been agreed upon or what is to be expected from each other has broken down. We describe who, when and what causes workplace conflicts and provide examples of typical situations where relations break down to such an extent that the cases are taken to court. The results show some variation between employers and employees, men and women, as well as insiders and outsiders of the Swedish labor market model. Our exploration into court cases in a highly regulated and formalized labor market suggests that regardless of the amount of regulations, people build relationships that go beyond formal rules. And when they interpret and judge their social relations, they will sometimes do so differently – and sometimes the differences will cause severe conflicts. Even in Sweden.

Keywords: Industrial relations, Durkheim, implicit duties and norms, psychological contracts, Labor Court decisions, text analysis

JEL-codes: L00, L14, M54, K12, K31

¹ Corresponding author: Charlotta Stern, The Ratio Institute, Box 3203, 10364 Stockholm, Sweden. Email: charlotta.stern@ratio.se. Thanks to participants at the CGHRM conference in Gothenburg 3-5 April 2019 and the CTA conference in Malmö 18-19 October 2018 for helpful comments. Thanks also to Martin Björklund and Niklas Odelberg for excellent research assistance.
**Introduction**

When someone in a relation breaks a promise, fails to fulfil expectations or breaks a commitment, people get upset. At work, failed relations are often discussed as breaches of psychological contracts. Research shows such failures to decrease performance, loyalty, motivation, citizenship behavior and employee retention (Coyle-Shapiro and Kessler 2000; Welander, Astvik, and Isaksson 2017; Zhao et al. 2007). Scholars have studied how to better calibrate work expectations and commitments (Kraak, Russo, and Jiménez 2018; Svensson and Wolvén 2010). In surveys, employees often report their employer as failing the relation (Zhao et al. 2007:649; Morrison and Robinson 1997; Robinson and Rousseau 1994).

Sometimes a failed relation leads to exit, as when a dissatisfied employee leaves an organization; other times the failure is severe enough to warrant a demand for retribution or justice. Our study investigates these latter failures. We investigate work related conflicts emanating from broken promises, commitments and unfulfilled expectations as they appear in the Swedish Labor Court. Court cases as a means to learn about the character of relational conflicts at work is a way to study organizational life in modern societies. Modern societies are social contexts rife with formal legal rules and contractual regulations—so what is it that remains to argue about? Can we say something about what causes upset in workplace relations by exploring who takes whom to court—the employer or employee, women or men? And what do the conflicts concern?

The main contribution of the study is twofold: Our first contribution comes from approaching the matter of law and failed relations from a sociological standpoint. Workplace conflicts in court are indeed social and relational in nature. Workplace conflicts are situated in the context of local norms defining duties, obligations and expectations. In sum, exploring Labor Court cases helps our understanding of the interplay between formal rules and regulations and the informal promises, expectations and obligations that naturally evolve in a local context where people are involved in day-to-day interactions. Bringing a sociological lens (back) to the study of failed relations underlying legal disputes reminds us of Durkheim’s ([1933] 1997) great wisdom: no matter how formalized employer-employee relations are, all contracts invoke and build on social relations, informal norms and duties.

Second, law is a major concern for all organizations, navigating compliance with labor law (Markoulli et al. 2017). The issue of law looms large in for instance *HR magazine*; to have the same emphasis on law in the scholarly literature as in the practitioner literature would mean a six-fold increase (ibid. 388). One way to motivate our study, then, is that it contributes knowledge on legal conflicts resulting from failed organizational and HR-
practices. This knowledge can hopefully be helpful for further research and practice in that it analyzes industrial relations from a—as far as we know—new viewpoint.

The sociology of psychological contracts

In modern day scholarship on organizational behavior, research into broken commitments and failed expectations in the workplace often uses the concept of psychological contract. Here, we use the psychological contract research as a frame of reference, a rich empirical arena to draw from, but are somewhat skeptical towards both the "psychological" and the "contract" perspective.

In *The Division of Labour in Society*, Durkheim ([1933] 1997) argued that although a formal, legal contract always constitutes a prerequisite for social action, it is accompanied by a shared understanding of its diverse consequences (p. 161ff.). In Durkheim's analysis, parallel to the legal code to which one is confined through a legal contract, contractual partners are also bound by their shared knowledge of a social and moral code, such as implicit duties and norms. Harmonious employment relations thus emerge when employer and employee agree on both the legal and the social code—i.e. on reciprocal rights and duties (ibid.).

Durkheim did not call the latter "contract" as he understood contracts to be formal agreements. Durkheim does not seem to inspire the literature on psychological contracts, which is unfortunate. The reciprocal character of work relations having to do with social norms and moral expectations in the organizational context has mostly fallen out of sight. In a way, psychological contract research has had the unintended consequence of making informal work relations individualized (see e.g. Levinson et al. 1962). The individualized conception is seen in Rousseau's seminal article *Psychological and Implied Contracts in Organizations* (Rousseau 1989):

> The term *psychological contract* refers to an individual's beliefs regarding the terms and conditions of a reciprocal exchange agreement between that focal person and another party. Key issues here include the belief that a promise has been made and a consideration offered in exchange for it, binding the parties to some set of reciprocal obligations. (Rousseau 1989:123; italics in the original)²

² We are not the first to point out psychological contract research' neglect of the social relation between employer and employee. Guest (1998; 2004) argues that without an employer perspective the literature cannot fully assess the mutual and reciprocal obligations between the two. Boxall and Purcell (2003) argue that an expectation or obligation entirely subjective and constructed in someone's head cannot in a meaningful way be 'contractual'.
Although turning a blind eye towards the importance of social context in defining and shaping commitments and expectations, the research on psychological contracts has made contributions as to the facets of the web of workplace relations: In the analyses of Labor Court cases we use the distinction between transactional and relational resources (Rousseau 1990:390). Transactional expectations and commitments are often *quid pro quo*, such as working overtime and taking on extra-role behaviors being linked to performance-based pay, training and opportunities for development. Similarly, relational expectations and commitments go together, as loyalty is exchanged for job security (Herriot, Manning, and Kidd 1997; Rousseau 1990). Interesting differences are also found between employers and employees, where employees are more likely to bring up transactional obligations, and employers bring up relational obligations (Herriot, Manning, and Kidd 1997, Guest and Conway 1998).

A considerable amount of research has dealt with psychological contract breach and violation, mostly from an employee's point of view (Conway and Briner 2002a; 2009, Robinson and Rousseau 1994, but see Lester et al. 2002; Truong and Quang 2007). Findings suggest relations typically fail because the organization has failed to create or uphold implicit duties or norms (Greene, Ackers, and Black 2001; Guest and Conway 1998, 2004), where a discrepancy between formal rules and implicit duties or norms exist (Dulac et al. 20008; Tekleab, Takeuchi, and Taylor 2005). Often, organizational change is a major prompt to trigger evaluations of past versus present (O'Neill, Halbesleben and Edwards 2007). Finally, research finds that differences in formal contracts go along with differing perceptions of promises made and promises broken (De Cuyper and De Witte 2006, Gakovic and Tetrick 2003; Schalk et al. 2010).

Taken together, research into psychological contracts gives a glimpse of the complex interplay between formal contracts and rules and implicit duties and norms (or psychological contracts). In contrast to Durkheim's time, relations between employers and employees in today's organizations are more formal and regulated. The employment contract regulating the relation is embedded in legislations and, in the Swedish case, collective agreements. So the question is whether the contract still is embedded in implicit duties and norms?

**Broken promises, commitments and obligations**

Undoubtedly, breaches of formal rules also cause conflicts that are taken to court. Our interest, however, lies in court cases emanating from breaches of commitments and
obligations. The distinction is not clear-cut, as court cases always build on formal rules. Also, sometimes norms or codes of conduct are so well-known or publicized that they are interpreted in court as legally binding (Morrison and Robinson 1997:227; Suazo, Martínez, and Sandoval 2009: 161; see also McLean Parks and Schmedemann 1994). It is not surprising then, that studies find that people are not always able to distinguish legal contracts from "psychological contracts" (Suazo, Martínez, and Sandoval 2009:157, cf. Bennett-Alexander and Hartman 2007). Indeed, as DiMatteo et al. (2011), argue "(...) whether a breach of the psychological contract reaches the level of a breach of a legal contract depends on a broad range of contextual factors including company representations, policies, and practices; organizational culture; reasonableness of employee expectations; longevity of employment; teaching of firm-specific versus marketable skills; and so on" (pp. 511f., italics added by us).

Here, we aim to explore topics or incidents where expectations and commitments have emerged in the workplace due to implicit local duties and norms, and where breaches of said duties and norms are seen as severe enough to bring about a lawsuit. Furthermore, we assumed that if we were able to find such cases, it would be of interest to analyze who, when and what causes such conflicts between employers and employees. We therefore ask the following research questions: Who takes the issue to court—the employer or employee, women or men? And what are the conflicts concerning? The main contribution is this: The lawsuits capture real cases in which either employer or employee did in fact feel wronged to such a degree that they (and their organizational support) assumed they could win a lawsuit. As relating back to industrial relations in general and organizational and HR practice in particular, the study is a small step towards building a potential knowledge base on topics that create legal conflicts.

Background

Sweden is particular when it comes to the organization of the labor market. Unlike most Western countries, unionization is high and also employers are highly organized (Kjellberg 2017, 2019). The outcome is that more than 85 percent of employees are covered by collective agreements (2017). Strikes and labor conflicts are rare, and most issues of contention are negotiated and resolved by the social partners, a labor market structure sometimes described in terms of "collective self-regulation" (Kjellberg 2019). Individual employment contracts are therefore often just the start of the formal rules covering the employment relation. On top of the individual contract are also rules specified in the collective agreement; concerning minimum wages, rules regulating working time, pension
rights, etc. And finally, state legislation regulates vacation rights, parental leave rights, employment protection rules, work environment rules, among other areas. The system of collective self-regulation suggests quite a lot of formality, covering many facets of workplace relations.

Typically, when a conflict arises, unions and employers negotiate to solve the dispute themselves. At present, both unions and employers have cadres of experts on both legal and collective agreement formalities to call into action. However, when conflicts cannot be solved by negotiation, lawsuits can be brought before the Labor Court (”Arbetsdomstolen” or ”AD” in Swedish).

There is another type of case that also appears before the Labor Court. These are appealed Civil Court cases. Individual employers or employees in Sweden who are not members of an employer or employee organization, or whose organization is unwilling to back a lawsuit, turn to Civil Court to get their case judged. Civil lawsuits will firstly be handled by an ordinary District Court (”Tingsrätt” in Swedish), and if one is dissatisfied with the District Court's judgement, one can lodge an appeal with the Labor Court. The Labor Court decides whether appealed cases should be brought forward. Independent of what type of case, the Labor Court judgements cannot be appealed and are, thus, final judgements (Arbetsdomstolen 2019). Several other rules apply:

(…) the case must concern a dispute arising from a collective agreement, a dispute relating to the law concerning the right to participation in decision-making (such as disputes relating to the freedom of association or the right to negotiate), a dispute between parties who are bound by a collective agreement, or a dispute relating to a place of work where a collective agreement is in force. (Arbetsdomstolen 2019)

These rules have interesting implications for the material we access and analyze, since, generally, the rules constrict the breadth of possible lawsuit-topics to formal rules, meaning that in order to win the case the complaining part has to show how broken commitments and failed expectations relate to formal rules and regulations in the law or in a collective agreement.

All cases are documented by the Labor Court in the form of comprehensive minutes, containing both the prosecution's and the defendant's lawyers' detailed descriptions and views of their respective clients, as well as the final decision and motivation of the Labor Court. Minutes are freely accessible on the Labor Court's webpage and can be downloaded in pdf format.
Material, method and analysis

The material for this study was collected in 2018 and the selection was limited to the previous two years, 2016 and 2017. Compiling the material meant going through the summaries of all court cases several times to determine which cases to include and exclude. In a first selection round, cases lacking narratives about the conflict were excluded, i.e. cases reported as "lack of minutes" in Table 1 below. Likewise excluded were cases where organizations (a union or employer association), bound by collective agreements, took matters to court; matters regarding the interpretation of a clause in a collective agreement; or cases about unlawful industrial action. After this first selection, the sample included 85 court cases (51 in 2016 and 34 in 2017).

Table 1. Overview of court cases and final selection

<table>
<thead>
<tr>
<th>Year</th>
<th>Total</th>
<th>First selection</th>
<th>Second selection</th>
<th>Psychological contract breach</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>lack of minutes</td>
<td>formal legal issues</td>
<td>cases</td>
</tr>
<tr>
<td></td>
<td></td>
<td>collective agreements</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>77</td>
<td>-17</td>
<td>-36</td>
<td>17</td>
</tr>
<tr>
<td>2017</td>
<td>67</td>
<td>-22</td>
<td>-12</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td>144</td>
<td>-39</td>
<td>-48</td>
<td>39</td>
</tr>
</tbody>
</table>

The second selection process was conducted after reading the court material in its entirety. An additional 48 cases were excluded from the study because the lawsuits did not concern breaches of promises, commitments or expectations. Typically, cases were excluded when plaintiff and defendant disagreed on what had taken place but agreed on what norms or moral codes were at stake. Other cases were excluded because there were no previous relations between the employer and employee, for instance in cases concerning discrimination in recruitment situations. After the second process, the final sample consisted of 39 cases.

After having created the sample of cases described above, the material was further analyzed on content and then coded into a range of categories to enable descriptive statistics. Themes relevant to answering the research questions were constructed:

---

3 Cases that do not have minutes are mostly cases that concern conciliations or cases where one defendant did not appear in court, automatically granting the plaintiff approval. Since these cases lack minutes, they are excluded.
1) Who considered that the psychological contract was broken? Woman or man? A single person or a group of employees?

2) Who won? Prosecutor or defendant? Employer side or employee side?

3) What is the character of the dispute?

   a) **Transactional disputes:** business disputes about formal contracts, disagreements about payments of wages and/or number of vacation days, side-line jobs, recruitment issues, terminations of contracts where employer and employee disagreed on the type of employment relationship, for instance who is to be considered the employer, whether there was labor shortage, period of notice etc.

   b) **Relational disputes:** business disputes around loyalty, workplace issues of discrimination, sexual harassment, threats and the like; and disputes on terminations were cases dealt with preceding misconduct or issues of competency.

**Descriptive results: Who, what and when?**

We started with a small quantitative analysis of the case material, where we used categorizations of the court cases' details to see whether patterns emerge in terms of who brings matters before the Labor Court—the employer or the employee—and what kind of dispute the cases deal with depending on who brought them before court. Not surprisingly, employees appear to bring more than twice as many cases before court (31 cases) than employers (8 cases). It is not clear what to make of the difference, since there are far larger number of employees than employers. Perhaps an expectation would have been even larger differences?

The types of dispute employers and employees bring to court differ. Employers bring employees to court in connection with what can be called employee breach of good practice. Such **relational** cases concern issues of disloyalty, improper or immoral behavior deviating strongly from informal norms of the workplace. The **transactional** cases concern cases where employees have failed to perform work duties, absenteeism or refusal to obey supervisors' orders.

In contrast, when employees bring issues before court that relate to **relational** cases, it has to do with policy changes of various kinds: a perception that the employer has broken a promise or expectation by changing conditions in the workplace. For instance, the three cases of side-line jobs (table 2) are cases where a public employer decided that an employee has to
desist in practicing a side-line job because the side-line job is judged to undermine the impartiality of the office.

Also, in contrast to the cases where employers bring cases of absenteeism to court, the absenteeism case brought to court by an employee is *relational*: The employee has been (illegally) absent from work due to a family emergency abroad and was expecting empathy and understanding rather than a termination of contract. The most common cases of relational breaches of promises, commitments or expectations relate to contract termination. One typical conflict concerns a case where an employer claims work shortage and lays off an employee (transactional) but the employee claims the employer is lying and that the real reason for the lay-off is personal (relational). Similarly, an employer re-issues an employment contract (transactional), offering either less work hours or the limitation of the contracted time. The employee perceives the new offer as the employer terminating the contract without due cause. *Transactional* issues relate to perceptions of broken promises or obligations relating to wages or vacation of the kind that were briefly outlined above. Conflicts relating to working conditions typically concern cases over contractual issues of work: a failure to formalize expectations in the work contract has led to built-up expectations in an employee—expectations that are now perceived as having been broken.

The distinction between relational and transactional disputes is vague and indeterminate in these conflicts, but we have tried above to motivate how we classify the cases depending on whether the conflict concerns mainly relations or transactions. A categorization and depiction of cases is presented in Table 2 below.
Table 2. Number of employer- and employee-plaintiffs by case category, (R) = relational, (T) = transactional

<table>
<thead>
<tr>
<th>Case category</th>
<th>Employer</th>
<th>Employee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Loyalty</td>
<td>3 (R)</td>
<td>--</td>
</tr>
<tr>
<td>Absenteeism</td>
<td>1 (T)</td>
<td>1 (R)</td>
</tr>
<tr>
<td>Performance</td>
<td>4 (T)</td>
<td></td>
</tr>
<tr>
<td>Side-line job</td>
<td>--</td>
<td>3 (R)</td>
</tr>
<tr>
<td>Discrimination</td>
<td>--</td>
<td>4 (R)</td>
</tr>
<tr>
<td>Termination</td>
<td>--</td>
<td>11 (R)</td>
</tr>
<tr>
<td>Wage/Vacation</td>
<td>--</td>
<td>5 (T)</td>
</tr>
<tr>
<td>Working conditions</td>
<td>--</td>
<td>7 (T)</td>
</tr>
<tr>
<td>Cases won</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>Total</td>
<td>8</td>
<td>31</td>
</tr>
</tbody>
</table>

In table 3 the quantified data is divided into three sub-groups, sector, sex and unionization. The results show some differences in who appears in front of the labor court. The Labor Court cases studied do not vary by sector, as the percentage of the workforce (population) working in the private/public sector are around 70/30 percent in Sweden in 2017. The share for the private sector includes civil society employers as well as self-employed individuals and their working family members.

Table 3. Description of psychological contract breach court cases. Population indicates the share in the overall population of Sweden.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Private</th>
<th>Public</th>
<th>Civil society</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>number of cases</td>
<td>23</td>
<td>13</td>
<td>3</td>
<td>39</td>
</tr>
<tr>
<td>sample share</td>
<td>0,59</td>
<td>0,33</td>
<td>0,08</td>
<td>0,99</td>
</tr>
<tr>
<td>population share</td>
<td>0,70</td>
<td>0,30</td>
<td>(incl. priv)</td>
<td>1,00</td>
</tr>
<tr>
<td>Sex</td>
<td>Women</td>
<td>Men</td>
<td>Both/Group</td>
<td>Total</td>
</tr>
<tr>
<td>number of cases</td>
<td>9</td>
<td>26</td>
<td>4</td>
<td>39</td>
</tr>
<tr>
<td>sample share</td>
<td>0,23</td>
<td>0,67</td>
<td>0,10</td>
<td>0,99</td>
</tr>
<tr>
<td>Union</td>
<td>Blue collar</td>
<td>White collar</td>
<td>No union</td>
<td>Total</td>
</tr>
<tr>
<td>number of cases</td>
<td>8</td>
<td>13</td>
<td>15</td>
<td>36</td>
</tr>
<tr>
<td>sample share</td>
<td>0,22</td>
<td>0,36</td>
<td>0,42</td>
<td>1,00</td>
</tr>
<tr>
<td>population share</td>
<td>0,60</td>
<td>0,72</td>
<td>0,31</td>
<td>0,69</td>
</tr>
</tbody>
</table>
However, compared to the workforce population, men seem more likely to appear before court than women. During the two years studied, employers took seven men to court and one woman. Men took their employer to court 19 times, whereas eight women took their employer to court. Overall, one conclusion is that in the covered material, men are more likely to get involved in serious conflicts over promise keeping, commitments and obligations with their employers than women are.

Another curious finding is that many of the cases are cases where unions and employer associations are absent. Most of these cases are appeals from the Swedish district courts, and typically pertain to work organizations that do not adhere to the typical Swedish labor market model. In Sweden, about 69 percent of the working population are unionized and around 90 percent of all employees are employed in companies covered by collective agreements (100 percent in the public sector, 84 percent in the private sector) (Kjellberg 2019). Thus, work organizations outside this structure are relatively rare. Most cases concerning promises and expectations seem to occur in workplaces that operate outside of the Swedish model.

**Substantive results: The character of conflict**

In this section, we use a more qualitative approach to study the character of conflicts brought to court. We use the court minutes to exemplify how cases that on the surface look like rather formal employment aspects really concern perceptions of broken promises. The first example concerns two disputes about wages and vacations. The first case (judgement nr 46/17; case nr. A 160/15) concerns a dispute brought before the Labor Court by a painter P, supported by painter P’s union. Painter P claims that employer E owes him money. Employer E argues, however, that painter P, who had previously suffered from the aftermaths of a stroke, had been absent from work without just cause and not been reporting for active duty. In contrast, P claims that E sent P home and refused to offer any work. The legal issue thus concerns whether wages are due or not. In short, the reconstruction of what happened looks like follows:

1. P suffered from a stroke and came back to work, working half time, but could not perform properly according to both clients and E.
2. E called P to a meeting. E asked P to contact a physician in order to schedule a rehabilitation meeting. Thereafter, P was to contact E and report the outcome of the meeting.
3. Later that day, P got in touch with E and asked for his next assignment. E reminded him about the meeting with the physician.
4. P did not report back.
5. E kept calling P several times without results. E asked another person to call P, who was successful in reaching P and asking him to call E – which he did not do.

6. A few days later, E received a negotiation request from P’s union, claiming P had been dismissed or fired.

The Labor Court judged that the painter had not received clear enough notice that he was expected to report for duty, hence his assumption that he had been closed off was valid. Since the employer had not clearly communicated whether he expected work from him or not, the employer had to pay the painter wages, as well as penalties due to a violation of the collective agreement. A mutual breach in relations from both sides regarding obligations and commitments created a conflict around transactions—wages due or not?

A second example (judgement nr 33/17; case nr. A 193/15) deals with midwives at a Swedish hospital. The case concerns five female employees with support by their union. The conflict concerns summer vacation and whether the employer was allowed to change the agreed timing of vacation on short notice, or if doing so was in violation of vacation laws or collective agreements. The issue may sound like a breach of formal rules, but underlying the conflict is a story leading up to the change that concerns promises and obligations. In short:

1. Midwives wanted two vacation periods rather than five, which the union supported and urged the employer to regard as new policy.
2. The employer agreed to implement the new policy.
3. Problems with vacant shift slots were not solved as usual.
4. Shortage of midwives due to late cancellations by temporary hires, parental leave, sick leave, etc.
5. The employer changed the vacation periods of the five employees to fill the vacancies, splitting their vacation into more than two periods.

Before scheduling their vacations, the employer assumed that the midwives would sign up as usual to fill vacant shifts in the summer schedule and assumed that this was part of the deal to make the change from five to two vacation periods work. However, when the midwives refused doing this also after the employer had pleaded and encouraged them, the scheduling of the midwives was changed to fill empty shifts. Indeed, the employer suspected that the midwives’ decision not to sign up for vacant shifts was an informal protest to get back at the employer for failing to pay better wages.

In contrast, the midwives had assumed that the first version of their vacation schedule was solid. They had also agreed to work fulltime and to not take out parental leave during the summer to make the two vacation periods work. They had not promised to take on extra shifts
to fill vacancies. It was generally known that people were overworked and tired and conditions as described under point 4 above were to be reckoned with. Hence, the late change of their vacation schedules was perceived by the midwives as breaching the promise of implementing the new policy on vacation periods and violating vacation legislation rules stating that changes can only be made with "just cause".

The Labor Court decided that the employer was right to assume that voluntary extra shifts would have solved problems with vacant slots. The court's judgement states that the employer could not be expected to reckon with the issues of point 4. Hence, the judgment was that the employer had had "just cause". The timing of telling the employees about the changes in their vacation schedules was also within the limits of the law, except in one case.

Both cases above are examples of when a conflict between employers and employees emerges because of unexpected change or disruption in the everyday workings of a workplace. In the aftermath of such unexpected change comes a strong perception of contract breach, interrupted commitments and broken expectations. The stories told in the cases deal with different interpretations of the same situations. The differently told stories about what has happened is due to mis-communication (voluntary or involuntary) and mis-interpretation of perceived promises and expectations. Therefore, even though it is possible in these cases to solve disputes by bringing them before court—and thus pointing to contracts and laws that have (not) been broken—what is common in our selection of cases is an underlying conflict concerning broken promises, commitments or expectations rather than a fight over formal contract violation.

A common pattern in the exploration of the labor court judgements is that the distinction between relational and transactional resources breaks down, as broken promises, expectations and obligations are relational conflicts over transactional resources.

**Discussion**

Studying cases where bad relationships are brought before the Labor Court is a way of studying relational breaches judged important, blatant and severe by the plaintiffs. The conflicts are also disputes that could not be resolved by negotiations, a more informal manner, but had to be dealt with in court.

Our analysis indicates patterns that go beyond individuals' psychological state of mind and point to larger societal patterns instead. In general, employees are more prone to bring cases before court than employers. One possible explanation might be employers' fears of reputation damage. Furthermore, employers take employees to court when they are
dissatisfied with conduct and work performance, while employees take employees to court when they are dissatisfied with wages, vacation, recruitment and lay-off decisions.

While sector does not seem to impact the number of cases before the Labor Court, the results indicate that disputes are of a more relational character in the public sector, where they deal with issues of discrimination and recruitment justice. In the private sector, disputes are about transactional contract breach, such as disputes over wages, vacation, misconduct and work performance.

The study also finds that court appearance varies depending on the individuals' sex. One clear pattern is that men to a greater extent bring issues before court. Men are also more often taken to court. More male employees seem to be involved in cases in the role as disloyal, misbehaving or underperforming "culprit".

One important limitation of the present study is the focus on workplace conflicts as taken to Labor Court. Most cases put before the Labor Court are cases that are supported by unions or employers' organizations, or cases where the collective agreement regulation is up for dispute. With regard to workplace conflicts over broken commitments and failed expectations, we see an overrepresentation of conflicts coming from the appeals from District Courts. As most judgements are probably not appealed, the cases that were analyzed here may very well be the tip of an iceberg.

Furthermore, it should be added that cases taken to court capture one of two things: Either the propensity to go to court in various social contexts or the seriousness of the conflict. Both propensities should be considered. Breaches in situations where the employer/employee is part of an otherwise well-functioning relationship may lead to a higher propensity to take the conflict to court. But the reverse may also be true: if the relationship overall is dysfunctional, the toleration for an additional breach may be enough to act. Here, one can assume that the competence of unions and employer organizations matter; in most cases they are the first instance of judging whether or not a case should be put forward.

This study of court cases in a highly regulated and formalized labor market, with high levels of unionization and collective agreement coverage, suggests that in relational matters it does not matter how many formal rules and regulations there are, people will build relationships that go beyond formal rules, and when they judge and interpret their social relations, they will sometimes do so differently. And sometimes the differences will cause severe conflicts.
References


towards an endgame (Vol. 3, s. 583-603). Brussels: ETUI (European Trade Union Institute), Bruxelles.


