

The Regulation of Labour in the Advanced Democracies

Three Phases, Two Models and a Generalized Crisis

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doi: <http://dx.doi.org/10.7359/826-2017-regi>

ABSTRACT

In the post-WWII period, employment relations in advanced economies have gone through three main stages of development. During the first stage, two distinct models of regulation of labour emerged: the ‘institutionalization of class conflict’, or the European model, based on strong industrial relations institutions; and the American model based on a ‘de-radicalization of class conflict’ due to upward mobility and the creation of a middle class imbued with individualistic values. In the second stage, beginning with Thatcher’s election in 1979, the European model came under attack, whereas the American model was suggested as the one towards which advanced economies were to converge. The third stage started with the 2008 financial crisis and the key development seems to be the deepening crisis of the American model as well. The conclusion is that, while the decline of European industrial relations institutions has not been halted, the American model has ceased to be a credible alternative.

Keywords: collective bargaining, employment relations, institutionalization of class conflict, middle class, trade unions.

To frame the current crisis of employment relations in the advanced democracies in a historical and comparative context, I believe it useful to distinguish three major phases that have occurred since World War II, each with its symbolic turning point and distinctive features. My thesis is that in the first phase – that of post-war reconstruction and the Golden

* English translation by Adrian Belton.

Age of the development of the Keynesian welfare state – two quite different models of labour regulation emerged. For the sake of brevity, I shall call them simply the ‘European model’ and the ‘North American model’.

The turning point of this first phase is usually identified in the rise to power of Margaret Thatcher and Ronald Reagan at the turn of the 1980s and the neoliberal wave which accompanied it. Thus began the second phase, in which the European model of regulation of labour came constantly under attack, while the North American one was explicitly indicated by many as the model on which all advanced economies were bound to converge.

Also this second phase lasted around thirty years: the turning point can be identified in the great financial crisis of 2008, from which ensued the deep economic recession still ongoing today. This crisis seems set to last for a long time, and exit from it appears not only distant but also unlikely unless it is accompanied by a ‘great transformation’ with the magnitude of the one masterfully described over seventy years ago by Karl Polanyi (1944). However, from the point of view of interest to us here – that of the regulation of labour – the crucial development of this third and current phase seems to be a breakdown of the North American model, which therefore ceases to be a credible benchmark for those who have envisaged the inevitable convergence between the two models.

1. THE PHASE OF KEYNESIAN DEVELOPMENT: THE TWO MODELS OF REGULATION OF LABOUR

A great deal has been written about the first phase – what the French have called the *trente glorieuse* of development of the Western economies based on the predominance of a Fordist production system and supported by Keynesian policies, as well as by the construction, at least in Europe, of a largely universalist welfare state. The ingredients of this model of development – at the micro level of the production system and at the macro one of the relationship between the economy and regulatory institutions – have been examined by a large body of literature. What has perhaps received less attention is the marked difference between the solutions proposed on each side of the Atlantic for the common problem of how to respond to the strength and compactness of a labour force made homogenous by the Fordist system and aware of its market power in the situation of growth and full employment induced by Keynesian policies.

The predominant solution in Europe has been the one that, since Dahrendorf (1959), has been called the ‘institutionalization of class conflict’. This solution, fully consistent with the other ingredients of the ‘European social model’ – such as a generous and largely universalist welfare system – has been based on industrial relations institutions able to reduce distributive conflict by channelling it into regulated collective action which produces negotiated outcomes. The four key institutions performing this role in the European industrial relations systems are: large encompassing unions which internalize the plurality of interests existing in the labour force by pre-mediating them within the associative dynamic; workplace representative bodies (works councils), which in some cases work closely with the trade unions, but in others provide an alternative channel for the expression of workers’ voice; a collective bargaining system with a complex and ramified architecture; and, in different countries and different periods, tripartite social pacts or stable concertation arrangements.

Yet none of these institutions developed in the North American context of the post-war period – or at least none of them assumed the same role and the same decisive importance in regulating labour. In fact, the American model was based, not on an institutionalization but a ‘de-radicalization’ of class conflict. Its components were the following: generally strong individualization of the employment relationship; an overall trend towards de-collectivization of the latter’s regulation; generalized adherence to a model of upward social mobility; and creation of a vast middle class embodying individualistic values. The American dream of individual success thus differed sharply from the ‘European social model’ that was the political and ideal horizon for the working class of the old continent.

2. THE PHASE OF DE-REGULATION AND GRADUAL DISINTEGRATION OF THE EUROPEAN MODEL

The 1980s (although, in fact, the process began in 1979 with the advent of Margaret Thatcher to power, and symbolically culminated in 1985 with her victory over the British miners in their long strike) have generally been interpreted – as regards the issues discussed here – as years of a prolonged attack on the institutional regulation of labour, as well as the welfare system and, more generally, the European social model. Actually, it proved difficult to translate the neoliberal rhetoric into practice even in

England – and all the more so in Continental Europe, where governments both socialist and christian-democratic were often resistant if not hostile to adopting the doctrines prevalent in the United Kingdom. But what was not achieved by the explicit project to deregulate the economy and labour – based on neoliberal doctrine and pursued by certain governments as well as supranational institutions in which that doctrine found most fertile ground – was at least in part the outcome of other phenomena working in the same direction.

The first phenomenon – well known and much studied – was the search by firms for organizational flexibility in response to increasingly volatile markets and to the inability of production process organization to keep up with the diversification of demand (Piore and Sabel 1984). This need for organizational flexibility also induced firms to seek more flexible ways to regulate labour – not as a Thatcherite political project to attack the trade unions, but rather in an attempt to adapt the industrial relations system to the characteristics of the new phase of development.

A second phenomenon – only partially related to the first – has received less attention even though it has been decisive in the slow erosion throughout Europe of the collective dimension of work regulation. This phenomenon can be described less as an assault by employers on the unions and on negotiation as a method to regulate work than as a strong development of individual or small-group bargaining, i.e. forms of negotiation different from traditional collective bargaining, which reflect the changed interests of not only firms but also key sectors of the labour force.

Collective bargaining had become the most efficient – and therefore dominant – method with which to regulate labour during the Taylorist-Fordist age, which was characterized by a highly homogenous labour force whose interests lent themselves to collective representation and mediation (Flanders 1970; Clegg 1976). Compared with unilateral regulation by the employer, collective bargaining also had the advantage of reducing the problems of legitimacy and consensus ever-present in unilateral decision-making systems. It also seemed superior to legislative regulation because, unlike the law, bargaining can take account of differences among sectors, geographical areas, occupational categories, and even individual firms.

Contrary to what is often claimed, the overall trend of the past thirty years has not been a return to forms of unilateral labour regulation; rather, it has been abandonment of the traditional collective dimension of negotiation and the spread of different kinds of bargaining. Put oth-

erwise, the aggregate representation of interests has lost the undisputed primacy that it used to enjoy in the world of work¹.

This tendency to abandon the traditional collective dimension should not be confused with the physiological process of bargaining decentralization, which responds to the organizational flexibility needs of companies. Nor should it be confused with the frequent inclusion in collective agreements of exemption clauses which may undermine the efficacy of a collective regulation, and which have been much discussed in recent years. My reference instead is to the growth in several countries of various forms of individual (or small-group) regulation to the detriment of collective bargaining. Already in the early 2000s Harry Katz (2003) observed that the spread of individual or group pay schemes – e.g. pay-for-knowledge, gain sharing and skill premiums – were likely to turn traditional collective agreements, reached at whatever level, into simple framework agreements on minimum pay.

This ‘de-collectivization of bargaining’ only partly stems from an offensive by employers to restore their unilateral authority in the workplace. It is instead mainly due to the fact that the gap has widened between, on the one hand, workers with low market power, and on the other, employees with strong bargaining power, and who, moreover, have greatly increased opportunities to act autonomously so that they do not need collective representation of their interests.

Individual or small-group bargaining has always been an attractive option for firms and higher-skilled workers. But the strong power asymmetry in the labour market and workplaces has long made it more convenient for the great majority of European workers to advance their claims through collective bargaining. As we know, the advantage of collective rather than individual action is that the large number of people involved and their organization are key resources with which to counter the overwhelming market power of employers. Nevertheless, over time, many firms have learned to appreciate the advantages of collective bargaining as a means to find aggregate solutions for problems, to produce shared norms, and to transfer responsibility for their application in part to the trade unions.

A general tendency to deviate from this collective dimension and the growth of forms of individual or small-group bargaining have been apparent in the past two decades in Europe. This means that the concerns of both enterprises and significant groups of employees have changed – or

¹ For an earlier discussion of these trends see Regini 2003.

at least that their perceptions of the benefits and costs of the traditional method have altered. The decline of collective bargaining and the corresponding rise in individual bargaining of various aspects of the work relationship is not being simply forced by employers on reluctant workers, whose willingness to organize collectively is supposedly frustrated by an authoritarian management. It is instead the outcome of structural and cultural changes that affect both firms and their employees. Amid collective action that retains a highly aggregated conception of how labour should be regulated, and which continues to concentrate with decreasing efficacy on traditional distributive issues, increasingly large groups of employees with strong market power are tempted to defect. And no less tempted to change their negotiative approach are firms whose internal labour markets have turned into loose networks of individual positions difficult to govern with general rules.

3. THE GLOBALIZATION OF THE CRISIS: IS ALSO THE AMERICAN MODEL DISSOLVING?

Hence, the long phase of labour-market flexibilization and individualization of employment relations has led to a breakdown of the European model of the institutionalization of class conflict, regardless of the varying degrees of success that de-regulation policies have achieved in European countries. For this reason, also in polemic with the literature on the varieties of capitalism (Hall and Soskice 2001), the notion of a “neoliberal convergence”, due to the disintegration of the European model of regulation – in particular the German model and the ‘coordinated market economy’ *par excellence* (Streeck 2009) – more than to the success of the American model, has become rather popular.

However, the novel development of recent years – which became apparent with the financial crisis of 2008 although it is only loosely connected with the latter – has been the profound crisis that now also afflicts the American model of regulation of labour, which was based not on the institutionalization of class conflict but its de-radicalization. The disintegration of the traditional European model has not halted; yet the American model is no longer the successful one towards which many foresaw, and some urged, gradual convergence.

The reasons for the decline of the American model are deep-lying, and they depend on long-term processes. But it was the shock and the

public debate which followed the financial crisis of 2008 that brought this issue to the fore. The Nobel Prize-winning economist Paul Krugman published several articles in the *New York Times* diagnosing the profound crisis of the American middle class and the self-perception of workers as belonging to that class. Kruger's articles documented for American public opinion the growth of inequalities that radically undermined the American dream of equal opportunities for all.

Other studies have conducted more analytical and detailed analysis of the processes blocking the channels of upward social mobility which for decades had the effect to de-radicalize class conflict, making the industrial relations institutions redundant. The first of these processes has to do with the supply of skilled labour; the second with demand.

As regards the supply of skilled labour, (i) the rhetoric of the knowledge economy and its requisite knowledge workers, and (ii) the belief that only the advanced economies can pursue a 'high road' to development based on high-tech products requiring a high-skilled workforce earning high salaries, have generated a surplus of supply over actual demand. In all the developed countries there has been a massive expansion of higher education due to what economists call a 'skill-biased technological view' of economic development, but also to competition for status among families (Regini 2011). The consequence has been an 'inflation of credentials', to which many firms have responded by requiring higher qualifications for jobs, but with no corresponding increase in the professional content of those jobs. Particularly in the United States, governments have boosted this race for higher qualifications by not only urging citizens to become more 'marketable' in the global competition but also encouraging them to take out loans in order to pay for this investment in human capital. But the demand for managerial, technical and professional jobs has been far lower than expected. While many economists were predicting an 'era of human capital' in which the economic success of individuals and economic systems would depend only on the extent and effectiveness of investment in themselves (Becker 2006), human capital proved to be subject to the law of diminishing returns.

Contributing to this outcome – even more than the surplus supply of skilled labour with respect to demand in the advanced economies – has been the explosion of higher education in emerging economies, especially China, India and Russia. Today in China there are more university students than in the United States, more graduates in engineering and science – in many cases with better training. The belief that knowledge workers trained at Western universities would be protected from price

competition is thus collapsing, and with it the rhetoric of upward mobility possible for anyone willing to invest in their human capital. Globalization has extended to the high-skilled labour market, and outsourcing now even involves 'knowledge jobs', which has induced some authors to speak of a 'global auction' of high-skilled but low-waged jobs (Brown, Lauder, and Ashton 2011). In short, competition by emerging countries has dismantled the privileged position of highly-skilled American workers and undermined the mechanism which de-radicalized class conflict through social mobility that long characterized the American model.

The response of the 'optimists' to this challenge has been to claim that, in the long term, it will produce a 'win-win solution': as consumers in emerging markets increasingly demand better-quality products and services so the largest developing economies will offer new opportunities also for knowledge workers in the advanced economies, although in the short term they are bound to succumb to the competition. However, even if this contention were correct, the problem remains of how the American model will in the meantime respond to the dramatic loss of confidence in its efficacy.

But there is a second process responsible for the blockage of the channels of upward social mobility which for decades had the effect of de-radicalizing class conflict. It does not have to do with the supply of skilled labour, but rather the demand for it. It is the process of standardization of a growing number of technical, managerial and professional jobs which has been called 'digital Taylorism' and raises serious doubts about the future of knowledge workers and occupational mobility. Digital Taylorism "involves translating the knowledge work of managers, professionals, and technicians into working knowledge by capturing, codifying, and digitalizing their work in software packages, templates, and prescripts that can be transferred and manipulated by others, regardless of location" (Brown, Lauder, and Ashton 2011, 72). This concerns the increasing standardization of conception work as well, and not just of production work as in classic Taylor-Fordism.

The productivity of new technologies in offices and professional services has fallen short of the expectations of firms, which have consequently sought to respond by reducing the cost of knowledge work through its standardization. But unlike the old Taylor-Fordism, which required the concentration of the labour force in large factories, this digital Taylorism makes it possible to disperse work activities among the most disparate locations in the world and then recombine them in real time (Head 2003). Moreover, it makes it possible to translate innovation

into routines that require a certain level of education, but certainly not the kind of creativity and independent judgement that the knowledge economy is usually assumed to require.

4. FROM THE GENERALIZED CRISIS TO A NEW FUTURE FOR INDUSTRIAL RELATIONS?

Hence the institutions of European industrial relations have not halted their decline which began in the 1980s, but the novelty is that the American model has ceased to be the credible alternative on which neoliberal economists, governments, and supranational institutions have ceaselessly sought to ‘converge’ the European model. Whilst for a long time the key question was ‘is the collective representation of workers’ interests still useful?’, the new question may soon become ‘how long-lasting will be the tendency to abandon collective action and the spread of individual bargaining’ that I discussed in the second section.

The trade unions of the advanced countries have generally weakened over the past three decades because the propensity of workers to join them has almost everywhere diminished, and because the reorganization of production processes and the fragmentation of the world of work have restricted the unions’ traditional area of representation. This decline in the capacity for economic and social representation of the trade unions is usually cited when assessing their residual capacity to influence employers and institutions. It is this weakening of representation, so the argument runs, which explains the lower bargaining power that unions are now able to exercise *vis-à-vis* employers and the state. And the prescription usually put forward is that the European trade unions should be able to recover representative capacity if they extend the labour protection system to include the ‘outsiders’. Only in this way, by increasing the effectiveness and extent of representation, will the trade unions be able to withstand the pressures for further deregulation of the labour market and industrial relations systems.

This recipe has become very popular because it combines criticisms from ‘left’ and ‘right’ of trade-union action. By tradition, the trade-union left is in favour of both more militant representation of the interests of the insiders and its extension to the outsiders – of course at the expense of the probability of reaching agreements and institutionalizing cooperation with employers and the state. But also from the right, unions have for

some time been criticized for their inability to represent outsiders; an inability, according to the proponents of this view, due to an excess of protection for increasingly smaller sections of the labour force – those defined by difference as the ‘insiders’.

Both criticisms neglect the fact that the greatest danger facing the trade unions of the advanced economies is not that they may be unable to represent the weakest and most precarious sectors of the labour force; rather, it is that they may lose the representation of its higher-skilled segments, namely of those endowed with greater market and bargaining power. The latter were for long the targets of the most advanced human resource management policies of firms. And they were those most tempted to abandon collective action and to engage in individual bargaining based on their power resources, as discussed in the second section. But the recent crisis of the American model proves that it is precisely here that there arises a new and unexpected potential for representation and a return to collective action.

More than half a century after Serge Mallet’s (1963) intuition that the frustration of higher-skilled workers is the driver of a more radical trade unionism, can we imagine the ‘new working class’ that he envisaged as pivoting on knowledge workers? If the mismatch between, on the one hand, the supply of high-skilled labour forced to compete globally for low wages and, on the other, a demand for increasingly standardized technical and professional work were to consolidate, it is possible that an unexpected effect of the knowledge economy on industrial relations is precisely this.

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