

Book Review

Ruth Dukes and Wolfgang Streeck (2023) *Democracy at Work: Contract, Status and Post-Industrial Justice*. Cambridge: Polity Press. ISBN: 9781509548989, 182 pp. £45.00 (hardback); £14.99 (paperback).

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The turbulences of platform capitalism have raised discussion on the future of work and of our society. This relates to the level of exploitation in Amazon or in the so-called gig economy, but also to the mobilising ability these workers have shown. Their struggles have challenged a neo-liberal trend where union power and labour protection seemed definitively compromised, giving hope for a democratic process and opening to new strands of imagination. This is the scenario where the prestigious pen of Ruth Dukes and Wolfgang Streeck articulates a reflection on the necessity for more equal and sustainable forms of work as the basis for a general reorganisation of the relationship between capital and labour.

However, current forms of labour do not come from nowhere, and the only way to interrogate its future scenario is by investigating its past. In this perspective the authors develop a “sociology of labour law”, focusing on key concepts, such as contract and status, which illuminate the long-term dynamics shaping working features nowadays. While the former is usually seen by law scholars as the foundational structure of society, the latter reminds us that rules are embedded in social dynamics. The result is a dialectic relationship that is key in understanding developments of “labour constitution”.

If neo-liberalism can be seen as an attempt to establish the superiority of the contract over the “proletarian condition” of the worker, the authors remind us that the shift from status to contract was the marker of progressive societies. The hegemony of the contract meant workers did not have to rely on the willingness of employers as serfs and slaves used to, but on bureaucratically enforced norms that guaranteed equity and social rights. However, in the capitalist labour regime the freedom of contract has often resulted in sealing the domination of one class over the other. This is where industrial citizenship originated, recognising “workers as bearer of rights on the one hand and recognising industry and the economy as spheres of public interest and democratic governance on the other” (p. 8). To be clear, the industrial citizenship that emerged after World War 2 was not perfect, nor was it universal as usually claimed by social-democratic states. The authors highlight how it has also been responsible for exclusion along gender and race lines, as well as never reaching certain sectors or categories of workers. What the authors point out, however, by building a dialogue between Philip Selznick and Hugo Sinzheimer, is not nostalgia for a golden-age labour law, but how “something like moral unity, a shared sense of fairness and equity, can arise in a capitalist political economy regulated by law” (p. 24).

The intervention of neo-liberal political economy was that of undermining the public and collective institutions which have ensured the post World War 2 compromise between “social

stability and economic productivity” (p. 49). This was done by privatising the employment relationship and encouraging a notion of status which became “a concession of management rather than an imposition by law” (p. 59). This is the result of two movements: on one hand, the tendency to enlarge the normativity of the contract, with employers extending contractual obligation and expanding their influence on workers’ status; on the other, the weakening of the social protection historically recognised for the “proletarian status”. During the 1980s and 1990s, the literature reflected on the “dualisation” of the labour market; the result is that a smaller part of workers kept benefiting from the prerogatives of industrial citizenship, and a growing portion of the workforce – usually those positioned at the “periphery” of the market – were excluded. Differently from what is usually understood on neo-liberalism, the radical changes achieved by neo-liberal political economy could not be possible without the intense law-making processes conducted by the state. However, this does not necessarily mean that they have been imposed, but in many cases they obtained consent both from government and workers. While in the first case the idea was that “flexibilisation” was necessary to pursue international competitiveness, on the other workers’ aspiration for a more flexibly designed job and the promise of more stable occupation for peripheral workers ensured consent around neo-liberal reforms.

The challenging question with which Dukes and Streeck confront the current work situation is whether or not the categories developed during the 1980s and 1990s are still valid. In many cases, in fact, they were residual categories that said very little about the emerging forms of employment relations. More than dualisation, then, it is the “fissuring” of the labour market that nowadays sounds more appropriate. At the same time, it is not only a matter of reducing labour cost – as the core–periphery theory suggests – but the creation of a legal fissure between employing organisations and those who work for them. This means on one hand that workers increasingly deal with self-employment and precarious working conditions; on the societal level this has created a scenario of small-sized companies that have undermined social redistribution. Moreover, financialisation and technological development have favoured the rise of quasi-monopoly actors that structurally refuse basic principles of industrial relations. In a nutshell: “the more power employers have in the market, however, the less they would need industrial relations” (p. 83).

The necessity, then, is to build new theoretical frameworks that can be used to analyse the directions where neo-liberalism is restructuring employment relations. It is here that Dukes and Streeck see the emergence of four archetypes of workers. First, they identify gig workers, such as those operating in food delivery or urban transportation, which is probably the most distinguishable case of fissuring. The point here is not simply their misclassification as self-employed, but the way in which they are encouraged to think like “entrepreneurs”, accepting that they must compete with each other and carry most of the risks of the market. Second are the Amazon warehouse workers, who on one hand resemble the neo-Taylorist work organisation, but on the other they are exposed to a manipulation of legal terms that leave them without the possibility to access basic principles of industrial citizenship. Thus, those who are not temporarily hired or provided by employment agencies may have access to the minimum wage, but they still lack protection for dismissal, lay-off or union representation. Third are care workers, who, despite a more marginal role of digital technologies, have faced continuous waves of privatisation, resulting on one hand in a “care market”, and on the other in casualisation of employment relations and a significant reduction of their wages. The final archetype comprises university careers, where the division between tenured and non-tenured academic staff has led early career scholars (ECRs) to compete for positions, budget allocation, research funds and the like. The problem here is that fissuring has led ECRs to feel like they are independent from the institution and that they have to rely on their “marketability”. More than just complying with quantitative performance indicators,

they work on their personal brand, spending long hours on social networks, personally paying for conferences, or paying someone – most probably in non-western universities – to do part of their job. However, what is key in all four archetypes is that in many cases workers have not simply been the victims of neo-liberal restructuring, but the use of powerful narratives such as “meritocracy” has in most cases made them a key agent, too.

Nonetheless, as much as neo-liberalism dreams of a scenario with no more social status, this keeps re-emerging in the struggles of riders, drivers or Amazon workers. Dukes and Streeck brilliantly move from these cases in reflecting on the possibility to build what they call “post-industrial justice”. Although the choice of this term may deserve critique – what they describe is far from being post-industrial, resembling a scenario where the industrial principles of production are actually expanding to spheres once excluded – they suggest a very promising path for future labour law elaborations. Echoing Polanyi’s countermovement, they do not simply suggest an intervention from above to impede “fissuring” and manipulative behaviours. As much as this is also necessary, it would not be enough to build an industrial justice which is adequate to the challenges of our time. The only choice left is taking seriously the “occupational communities” investigated by ethnographic sociological research. More specifically, they should be considered “as part of the labour constitution within which they are embedded” (p. 112). In a nutshell – when they resist corporatist tendencies and confront the demands for universal rights – they are not only the evidence that once there is a contract there will always be a status that Capital must deal with, but that labour conflicts constitute the necessary premises for “social and legal justice”. Thus the goal of labour laws should also be that of “cultivating conflicts” (p. 131), which means recognising their “moral value” (p. 137) and supporting their ability to produce social norms. It is in this perspective that the “sociology of labour law” lucidly developed by Dukes and Streeck may not only open a new field of analytical studies, but also provide key tools to pursue “Democracy at Work”.

BIOGRAPHICAL NOTE

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