

REDEFINING ECONOMIC DEMOCRACY ON THE RISK OF ECONOMIC INSECURITY THROUGH CHANGES IN EMPLOYMENT PROTECTION

IN THREE COUNTRIES IN TRANSITION AT THE TURN OF THE CENTURY IN ASIA

Two decades of global integration of product and finance markets and of decentralisation of production made democracy the dominant political ideology (Gills 2002).

When limited to a legal and institutional mechanism, democracy can constraint the action of society upon itself, that is, the capacity of the citizens to direct it in one way rather than another (Thibault 1999) thus leading to the "soft" despotism¹ of state regulation, at the scale of the nation (Arnaud 1999), of the introduction of change, at the scale of the firm (Courpasson 1999).

The purpose of this paper is to ask the question of democracy on the risk of economic insecurity in three countries in transition in Asia, recognising that industrial relations institutions have their origin in the necessity to limit and to share a number of risks inherent to labour, between employees, employers and the community: risks that threaten workers' physical integrity, then, risks that affect workers' capacity "to reconstitute their labour force", risks of economic insecurity in case of loss of work capacity or unemployment (Supiot 1994).

The individualisation of the employment relation together with the reinforcement of state regulation of employment protection have been leading to a phenomenon of "institutionalised exclusion" (Cerny 1995). As firms are taking in charge wider and wider aspects of employment protection and as public authorities are intervening in order to prevent "social disintegration", a gap happened between the formal frames (legal equality) and the norms formed in these frames (real equality), modern law being defined as the institutionalisation of "normativity" which implies the articulation between formal frames and norms (Weber 1986)

(I.)
The *functional* conditions (procedural) and the conditions of *legitimacy* (normative) of an economic democracy (Habermas 2000) are redefining, on the one hand, through the progression of a "participative approach" to the formation of rules that emerges through changes in public action and the organisation of industrial relations institutions and which materialise in the formation of *substantive* "non-redistributive" rights and, on the other, through the recomposition of a major actor of industrial relations, labour, enhancing a greater dependency of the "participative approach" to unions' internal organisation conditions or, a greater sensitivity to the coherence between external and internal democracy (Stavis 2002)

(II.)

I. THE CONDITIONS OF THE SLIGHT DEVELOPMENT OF AN ECONOMIC DEMOCRACY THROUGH CHANGES IN EMPLOYMENT PROTECTION

The individualisation of the employment relation has been accompanied by the reinforcement of the "redistributive" function of the state that has slightly contributed to the development of an economic democracy which implies the decentralisation and the participation of the "weakest groups" in society to the formation of rules. State rules imposed *substantive* institutional limits on management to avert pauperisation as a matter of priority.

Two conditions were met that made it possible for the state to form rights that have not contributed to the development of an economic democracy: first, the institutional setting of industrial relations in regard to employment protection (the norm of employment was formed in social contracts in which the state played a central role, whether unions (Korea, China) or employers were absent (India)), second, the democratic project at the end of the XXth century

which differs from the one of the XIXth, globalisation making the redistribution of "democratic opportunities" more unequal than the redistribution of wealth and income (Teune 2002).

1. The "redistributive" function of the state in a "maximaliste" conception of democracy

Substantive democracy is a "maximaliste" conception of democracy that complete the *functional* conditions of a political democracy, in a "minimalist" conception, with the conditions of *legitimacy* of an economic democracy.

Besides state centred approaches, some approaches focalising on social forces understand democracy as a social and political counter-movement.

For Habermas, due to real inequalities, legal equality that citizens depend on for their private and public autonomy, is not worthy for all. The *legitimacy* of the nation state implies that the status of the citizen be a source of solidarity and the function of the welfare state is to make sure that " the citizen 's status keeps a practical value being converted into social rights"

Dimitris Stevis matches *voice* criteria : agenda setting, policy making, and policy implementation, and criteria of *choice* : redistribution, mitigation, allocation, and warn that the rules of *voice* do not by themselves tell us whether a policy is democratic if we do not understand which *choices* are possible in the criteria of a policy, and in the same way, that the rules of *choice* are not adequate criteria of democracy if the parties affected do not have a *voice* in the policy making and implementingⁱⁱ (Stevs 2002).

Conceiving development as the economic security of those who live in a society Amartya Sen, recognises an *instrumentalist* function of civil and political rights, which make it possible for economic needs to be addressed to governments and answers to be given, and a *constructivist* contribution of these rights which enable the conceptualisation of economic needs, - contents and strength - and the understanding of what can be done or not concerning them which implies public deliberation (Sen 1999).

Following the development of the welfare state, the "redistributive" function of the state has come to refer to the whole range of policies that aim at granting resources and powers to "weaker groups" as a redress of their underprivileged position. A policy may be "more democratic" to the degree this policy "...undoes structural inequities, in the process undoing the relations that produce these inequities and thus leading to the transformation of the social entities engendered by these unequal relations " (Teune 2002).

"Redistributive public goods" become, under the reign of the welfare state, *substantive* rights. *Substantive* democracy implies the decentralisation of the formation of rules and the participation of "the weaker groups" that enable these groups to contest the *substantive* rules that make them "weaker groups" (Arnaud 1998, 1997).

Substantive democracy is described by Teune as the ultimate stage of the democratic development. It implies "a decentralised world of many polities operating under the principle of openness. It is also a world of open information and access, allowing individuals a full range of choices to pursue not only their own well-being but also the political communities that meet their definition of virtue".

Participation requires two conditions that could be schematised in terms of "input" and "output" : 1. Set up the arenas of public deliberation, 2. Solve the problems that concern the participants to the deliberation.

Decentralised participation that makes democratic governance may be defined as the articulation between the formal frameworks and the norms formed in these frameworks.

2. The conditions of the economic democracy : the "institutionalised exclusion"

Even though it has seldom been codified, the norm of secure employment - a full time, unlimited term employment - emerged as the reference of employment relations, in Korea, China, and India, in the second half of the century (Lee, Kuruvilla 2001)..

The norm of employment corresponds to the social norm that in a society emerges and by which this society manages the risk of economic insecurity inherent to labour. The norm determines the conditions of employment protection and industrial relations systems.

The norm of employment emerges from "historic compromises" between workers' and employers' organisations (Sisson 1987) which determine norms, practices and mutual expectations and generating a major force of inertia (Olson 1982, Streeck 1987).

Economic development in the capitalist system rests on the management of the structural antagonism that characterises the employment relation in this system - potentially generating conflicts -, through a combination of accommodation and domination.

Such social regulation involves the institutional structuring of the work process, the labour market, collective representation, and political representation. The forms taken by such regulation develop and vary over time and space. The state is implicated as the more or less adequate manager (North 1981) of the capitalist development (Boyer, Hollingsworth 1999).

Economic globalisation put new competitive pressure on firms, compelled to satisfy to criteria of capital profitability and labour productivity, resting on a flexible production (Edwards, Elger 1999, Waddington 1999).

Whether based on costs and favouring adjustments by the manpower quantity ("quantitative flexibility") or based on quality and innovation and implying the development of competencies ("functional flexibility"), competition has led firms to take in charge wider and wider aspects of the employment protection.

Unions may participate in the determination of terms and conditions of employment especially in the case of "functional flexibility" which contrary to "quantitative flexibility" requires the stability and durability of the employment relation (Kochan and al. 1986).

In practice, the individualisation of the employment relation resulted in the development of managerial unilateralism (Deery, Mitchell 1999). In China, in 1993, the exclusive power of decision of the employer over hiring and layoff, was confirmed by the 3rd Plenum meeting of the CCP. In China, in urban areas, unemployment rates rose from 4% in 1993 to 7% in 1996. In India, 87% of the workers in the building and clothing sectors are employed on limited terms. In Korea, between 1997 and 1998, the number of permanent workers declined by 10%.

In every country, the state intervened essentially with a view to preventing pauperisation. The state made legislation on dismissals, job cuts, plant closures, the use of "non-standard" forms of employment. Public action also consisted in shortened workweek, early retirements, voluntary severance, reclassifying. These measures were accompanied by the consolidation of social safety nets (social income, unemployment benefits...).

In China, at the end of the 1990's, the government favoured new employment security adjustment mechanisms coupled with new measures in terms of social security : transfers, shortened workweek, extension of the unemployment insurance.

The modernisation of the systems of production in India and China and, the progression of a competition based on quality and innovation, in India and Korea, favoured the development of a model of industrial relations founded on co-operation and consultation, that marginalises unions and does not encourage collective bargaining. The "neo-unitarian" perspective prevalent in Asia, influenced by Japanese paternalist practices and South East business unionism favoured still more a model of industrial relations oscillating between confrontation

and co-operation, without any sense of counterpower that characterised the emergence of industrial relations in the West (Hyman 1998).

State regulation either restrained and controlled (China and Korea), or, did not encourage collective bargaining (India) or, favoured collective agreements without unions (Korea, China).

In South East Asia, tripartite consultative organs set out recommendations that governments do not take into account when reforming legislation. The countries in the South do not have a tradition of bipartite dialogue that end up with solutions accepted by the social partners. Discussions result in statements of principle that employers ignore in practice. In China, bipartite social dialogue at the national level just does not exist.

Collective bargaining is decentralised. In China and Korea collective agreements are signed by non union representatives.

Another condition for the formation of "redistributive" rights that have not contributed to the development of an economic democracy is the democratic project at the turn of the century.

The question of the democratic transition has been asked either from the central view point of the state, comparative studies dedicated to the role of the ruling elite and strategic choices (Clark 2000), or, the decentralised view point, of the social forces, research focalising on associative forces (Putnam 1993) or the power of coalitions (Luebbert 1991). The democratic formation from "above" or "below" answers to a political questioning.

This is to forget that capitalism is both an economic system founded on a structural inequality and a political system founded on the recognition of this structural inequality ; This is to disregard the fact that the democratic project at the turn of the XXth century differs from the one of the XIXth because of the integration of national economies in a global capitalism.

Liberals and Marxists, established, in Western countries in the XIXth century, that the actors of the capitalist industrialisation were the actors of the democratisation. Industrialisation leads to changes in class structure and class forces that constitute the social basis for political change.

Tracing back the origins of labour rights, formed through struggles with sovereign states and guaranteed by the modern nation-state, Tilly contend that citizens and democracy have come to depend so tightly on these rights that democracy is in essence a labour democracy (1995).

Upon the political economy hypothesis that social forces are most likely to champion democracy when their economic interests put them at odds with the authoritarian state, Eva Bellin, argues that democratic enthusiasm on labour side is determined by the dependency towards the state.

Labour dependency upon the state can be deepened by the state's adoption of a corporatist strategy that provides unions with financial and organisational support in exchange for political loyalty and self-restraint.

In developing countries, extensive state sponsorship, the structural weakness of social forces, pervasive poverty, have often led labour to seek authoritative institutional arrangements.

The new conditions of real equality, that is labour greater reliance on economic security at the turn of the century, and the new conditions of formal equality, that is the development of a "neo unitariste" perspective of industrial relations, have made the distribution of "democratic opportunities" more unequal than the distribution of wealth and income (Teune 2002).

1. THE REDEFINITION OF ECONOMIC DEMOCRACY THROUGH A "PARTICIPATIVE APPROACH" TO THE FORMATION OF NORMS : THE KOREAN CASE

The *functional* conditions (procedural) and the conditions of *legitimacy* (normative) of an economic democracy are being redefined through the progression of a "participative

approach" to the formation of rules through changes in public action and the reorganisation of industrial relations institutions.

The Korean case illustrates this development of an economic democracy.

1. The "participative" alternative through changes in public action and the reorganisation of industrial relations institutions

The development of "quantitative flexibility" (China, India) and the progression of "functional flexibility" (Korea, India) favoured some progress towards an economic democracy, governments considering laws enabling social partners to adjust manpower quantity to the competitiveness of firms.

In India, collective bargaining is developing at the enterprise level associating job cuts to complementary retirement pensions, and clauses relating to sub-contracting (Frenkel, Kuruvilla 2002).

In China, the government authorised collective bargaining in the employing unit. The 1994 law made it possible for unions or elected representatives to enter into collective bargaining with the employer (Warner, Sek-Hong 1999).

Decentralised participation enabled the production of labour rights but their imposition only up to a certain limit, public authorities intervening to impose these "non formed" rights. *Substantive* "non-distributive" rights, *intrinsically* defined granted to workers according to their relation to precariousness. The "participative approach" which forms *substantive* rights *intrinsically* defined through changes in public authorities modes of action calls for a reorganisation of a major actor of industrial relations, labour, leading to the assumption of a greater dependency of the "participative approach" upon the conditions of the internal organisation of unions, or, a greater sensitivity of the "participative approach" to the coherence between external and internal democratisation.

A great deal of work report an important process of recomposition of labour organisation aiming at reinforcing unions' *legitimacy*. This phenomenon concentrates on the extension of unions' organisational basis and on the democratisation of unions' structures.

The authors describe the way unions put up new resistance to social fragmentation, for instance, opening adherence from mere formal membership (Freeman, Rogers 2002), instilling more democratic procedures in their internal organisation (transparency and decision making) (Lynd 2002), or, form alliances with moderate unions (Stavis 2002), non union representatives (Hyman 1994), transnational unions (Risse 2001), political parties (Lynd 2002), civil society associations (Finnemore, Sikkink 1998).

Some writers link unions' recomposition as a social movement to the question of the democratisation of industrial relations. A few made research on public institutions concluding that it is in the interest of unions to seek participation in national arenas in the making of "redistributive" policies while democratising their internal structures (Stavis 2002). Others focalised on changes in public authorities' action and on the reorganisation of labour and related internal democratisation to changes in the formation of the rules (Munck 2002).

2. Economic security resulting from the correspondence between external and internal democratisation in Korea

At the end of the century, except for the opportunity given to unions to bargain at the level of the firm, the democratic transition has been essentially a political one.

In some cases, however, democracy was reinforced through the progression of *substantive* rights concerning employment. This strengthening resulted from the correspondence between external and internal democratisation together with changes in public action.

At the national level, the setting up of tripartite consultation enabled unions to express and impose workers' interests in the making of policies. At the same time, at the firm level, workers benefited from the democratic transition, the legalisation and the institutionalisation of unions in the firm enabling them to participate in the determination of working conditions. The co-ordination between national organisations and local unions made it possible to oppose a strong resistance to massive lay-offs enabling a progression of *substantive* workers' rights.

It is only at the end of the 1980's that a conception of "democracy for people" gave its significance to the democratic movement born after 1945 (Hagen Koo 2000, Sejin Pak 1999).

Until the end of the 1980's, the democratic movement had been led by students, intellectuals, religious leaders, opposition politicians, whose main objective was to establish a political democracy for "undifferentiated people" leaving no possibility for a view point of the capitalist system of accumulation and the class structure to emerge.

The realisation that capitalism generates inequalities between individuals and groups was embodied in a movement for the liberalisation of the underprivileged : the *minjung*.

However, during the ten years that followed the 1987 revolution, the adjustments that would have enabled workers to organise at the national or industrial levels or, unions to engage in political activities were limited.

In Korea, the incorporation of unions in the state structures was done at the initiative and under the control of the ruling elite.

In 1998, the social partners and the state shared the costs of adjustments, in the Consultative council: capital promised to minimize layoffs, labour pledged to raise productivity, as well as, cooperate with management in readjusting wage and working hours, the government promised to make efforts to protect basic labour rights and develop a comprehensive social security net. The integration in the political structures the national organisations longed for ironically led them to participate in these arenas to the implementation of institutional changes that weakened workers : the agreement authorised dismissals.

However, at the level of the firm, workers were given the right to organise on a true representative basis and to engage in collective bargaining. Moreover, the agreement which resulted in the law on collective dismissals reinforced the power of unions, compelling employers to clarify the circumstances and the procedures for layoffs with unions.

In Hyundai Motor, the co-ordination between the Korean Confederation of Trade Unions and the strongly organised local union opposed layoffs. The Hyundai Auto union, asked for further reduction of the workweek and voluntary retirement measures, - against what by international standards, have been modest job cuts. As the conflict was at a stand still, two high-profile government leaders intervened. The union obtained an important reduction of the number of jobs that were to be suppressed. Hyundai Motor, however, does not constitute a general case. The union movement is very much fragmented and local unions are too preoccupied by the defence of their members' jobs to be interested in the lot of other workers.

As a conclusion, one may think about Dominique Schnapper's statement that the "la legitimacy of the political society is now founded on the project to guarantee to all its members decent conditions of existence that ensure their dignity "and no more" the means to guarantee conditions of existence to individual citizens for them to effectively exercise their political rights as citizens" in the classical republican conception" (2002), or John Kenneth

Galbraith pointing out that nothing so constraints the freedom of the individual as a complete absence of money (1996).

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ⁱ See Charles Taylor

ⁱⁱ Redistribution refers to policies that aim at the transfer of resources and powers to hitherto weaker groups, mitigation refers to the use of substantial resources to ensure stability and avoid massive failures affecting the weaker, and allocation refers to the orderly distribution of benefits and obligations without regard for structural inequities.