



Increasing use of 'market' concepts in negotiations and contextualising factors

Jens Thoemmes

► To cite this version:

Jens Thoemmes. Increasing use of 'market' concepts in negotiations and contextualising factors. Carole Thornley, Steve Jefferys, Béatrice Appay. Globalization and Precarious Forms of Production and Employment: Challenges for Workers and Unions, Edward Elgar Publishing, pp.147-163, 2010, 9781848445932. <hal-00942020v2>

HAL Id: hal-00942020

<https://hal.science/hal-00942020v2>

Submitted on 5 Aug 2014

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.



HAL Authorization

Thoemmes, J. (2010). 'Increasing use of "market" concepts in negotiations and contextualising factors'. In: C. Thornley, S. Jefferys, and B. Appay (eds.). *Globalization and Precarious Forms of Production and Employment: Challenges for Workers and Unions*. Cheltenham: Edward Elgar Publishing, pp. 147–163.

Jens Thoemmes

Increasing use of 'market' concepts in negotiations, and contextualising factors

This chapter is based on a series of research projects on the negotiation of working time relating to company-level agreements in France (and in other European countries) from the early 1990s. Collective bargaining between employers and trade unions has profoundly changed the working conditions of companies. We propose to trace this change from what we have achieved over fifteen years of research in this field. Our aim is to deepen the theory of negotiation with particular respect to the role collective bargaining on working time plays in organisational structuring. Collective bargaining in French companies is framed by legislation. We therefore address the whole process of regulation of working time, which combines the activities of trade unions, employers, and the State.

Our theoretical framework draws firstly on the theory of social regulation (Reynaud 1979), and then on the theory of organizational work, developed by Gilbert de Terssac. De Terssac (2003) argues that work also involves organising; the organizational component cannot be separated from the productive. The usual distinction between the work of management viewed as organizational work, and the execution of work as productive work without an organizational dimension is meaningless. On this theory, collective bargaining can be considered as work that takes place in the productive sphere, which itself is characterized by a relationship of subordination. In this sense the work of negotiators produces social change, and modifies working conditions. Our paper aims to focus on this change.

The negotiation process developed over a period of 150 years, initiated originally by the labour and union movement. The impetus for changes to working conditions was linked to the protection and health of workers at their workplace. However, the last 20 years have seen a new direction, where market concepts are increasingly employed in negotiations. A particular emphasis on changes involving variable norms of work duration, as well as incentives to maintain or create employment, show new forms of coordination of labour and product markets. The use of market concepts is generally widespread in the developed economies. Historically as well as in the current period, globalisation results from the application of market concepts. But the collective bargaining experience in France still concerns a fairly regulated state of labour. We will show that there is no necessary contradiction between the use of market concepts and a regulated state of labour, and that trends towards the introduction of market concepts go beyond narrow conceptions of precarious forms of labour, like part-time work or temporary work, to penetrate the core of the workforce.

From some perspectives, working conditions may worsen as a result of the use of new market concepts. We will see that the focus of employers and unions is not on precarity in the classical way (part-time, temporary work), but on stability of employment and on collective agreements. Nevertheless, public policy and different pieces of legislation aimed at commodifying working-time and working conditions. But the introduction of new market methods is a negotiated terrain. Companies and unions do not blindly follow legislative intentions: there is a complex give-and-take process that changes the outcomes of collective agreements.

1. Regulation of working time and the market

1.1 Trends towards the reduction of working time over the last century

While issues of employment and flexibility tend to focus on the importance of labour markets and product markets, a brief review of the legislation of working time in France shows, by contrast, that the slow emergence of working-time regulations was based on other concerns.

For a century and a half, working time has been constructed as a collective norm, a measure of stability around what might be called a standard by an anchoring of rules in labour law, and the creation of special inspectors charged with overseeing the implementation of these regulations in business. This standard of working time emerged in three great periods: the first (from 1830 to 1841) established state intervention in the relationship between employer and employees, and the second (1841-1904) dedicated inspectors as the actor responsible for enforcing the law and punishing abuses by employers. The third (1904-1982), established the time-standard for all with a stable week, fixed daily hours, 2 consecutive days off and 5 weeks of leave.

A law in 1906 established a weekly rest day on Sunday. The Labour law stipulates, however, that “some exceptions (concerning weekly rest days) may occur in some cases, with a weekly rest day on another day than Sunday” (Article L. 221-2, quoted by Grossin, 1992, p. 249). The 8-hour day established by law (23 April 1919) had been a trade union issue from 1888. But its implementation was gradual and sectoral. This law was passed after the First World War, following the conflict that led the government of Clemenceau to avoid a test of strength with the trade unions. Strikes with factory occupations in May-June 1936 led to two further laws “establishing the first 40-hour week without loss of pay”, and introducing paid holidays (Fridenson, 1993, pp 25-26).

The four main components of the working time standard temporal order are:

- a standard or social norm (covering weekly and daily rest times and holiday entitlements),
- state intervention as a normative power
- the common rule creates collective recipients
- sanctions are highly developed.

The search for competitive flexibility from the 1980s saw a revision of this conception of time and was characterized by the abandonment of the traditional scheme of collective bargaining around the limitation of working hours which was at the centre of discussions for a century and a half. The length of daily and weekly working hours in itself, which were the subject of the very constitution of the labour movement, were abandoned by unions, employers and by public policies in favour of the logic of production and their extensions through various methods of temporal flexibility. .

This paper aims to explore this new way of dealing with working time. What is the content of this new direction? By what process has this direction become widespread? Does this new tendency mark the end of protections for individuals at work? Or is it a new way of negotiating under the auspices of markets that actually retains an established way of seeing working time?

1.2 Shifting the view from health to markets

Employers and unions, backed by the state, have clearly changed the way of conceiving working-time. That does not mean a shift in power to employers, but certainly a change in union policies: less health and more employment could be the summary. How does this view fit with the shift to markets? Our contribution will address the period 1982-2002. Collective bargaining has indeed changed the nature of the process. The rationality of the process based on the health of the worker has been replaced by a rationality linked to markets. In just 20 years of collective bargaining, the variability of working hours, the desire to be ‘close’ to product markets, and employment stability have replaced the trend towards reducing working hours and improving employee welfare. The first two of these issues are employer aspirations, while the third is on the labour movement agenda. This evolution is also reflected in the legislation. This is what we have termed the arrival of ‘market-times’ (Thoemmes 2006). However, the change in rationality of the process and the outcomes for organizations have neither been predictable nor inevitable: they are the result of the work of the negotiators which can be considered as organizational work.

Theories of industrial relations (primarily Anglo-Saxon), already addressed the issue of markets in the context of collective bargaining. The work of Dunlop (1958) and Kochan et al. (1986) show the importance of the environment in general and the influence of the market in particular for the content of collective bargaining. In their book *The Transformation of American Industrial Relations*, Kochan *et al* (1986) discuss changes in the industrial relations system in the United States explicitly referring to Dunlop’s *Industrial Relations Systems*: key players such as employees, management and the government produce rules, while incorporating the surrounding context, including economic, technical and other legal and social forces. Thus the introduction of concepts such as “markets” and “environment” in addition to the analysis of the traditional forces of collective bargaining is central in the understanding of the system of industrial relations in the United States.

With respect to Europe, we would also like to stress the presence of another element in the relationship between industrial relations and markets, namely the construction of Europe as an entity: the creation of a common market which could influence the industrial relations system of European countries. Does Europeanization, the political construction of a market, ultimately

produce a harmonization of social systems? And what are the relationships that emerge within the industrial relations system which remain national? Regarding relations between the state of industrial relations and the market in Europe, the arguments in *Industrial Relations in the New Europe* edited by Ferner and Hyman (1992) remain valid. Their analysis is based on 17 nations and their industrial relations, following the Maastricht Treaty agreements on the single currency and the social charter. The context of Europeanization cannot conceal the extreme variety of situations from one State to another. In the introduction (op. cit.), the authors emphasize the progressive integration of European economies in a global economy dominated by multinational enterprises. By refusing to view the development of industrial relations as a simple passage from a Fordist economy to a post-Fordist economy (the theory of economic regulation), the authors focus on the link between the economic context and regulatory institutions. Regarding the decentralization of industrial relations, Ferner and Hyman (1992) put forward, inter alia, the promotion of decentralization through political choice with a legitimacy linked to market forces, as was the case in England. While the conclusion focuses on a weakening of unions in most European countries, Ferner and Hyman (1992) emphasize that the effects of recession and growing instability did not originate through labour market competition, but rather through the uncertainties generated by product market competition.

In sum, market-related concepts and working-time and working conditions can be understood in a wider perspective as a globalisation issue linked to political choice and new forms of legitimacy. This issue is particularly pertinent for developed countries, especially the United States and the European Union.

1.3 The use of the concept of organizational work

We would argue that industrial relations must also incorporate the theory of social regulation (Reynaud, 1979, Terssac 2003 eds.). With respect to social regulation and the market, we would like to deepen the concept of 'organizational work' put forward by Terssac (2003). For us, collective bargaining is itself a genuine form of 'organizational work' undertaken by employers, unions and by the state. Market-times are the results of a long term process in which collective bargaining is considered as work producing a result. Indeed, in the words of Terssac (2003: 123), the learning process represented by organizational work, goes through different phases of experimentation, generalization and differentiation before reaching a more or less stable state. Outcomes or results are achieved through the confrontation of different projects and collective actors.

The main reason for using this form of theorisation is to consider 'organising' activities as a job itself, as an activity that serves productive activities, and should therefore be analyzed as work (De Terssac 2003). Collective bargaining is part of organizational work in the sense that it structures the world of work and defines its conditions. From this perspective we can trace the slow introduction of a new form of French collective bargaining, one that did not arrive unprepared or without any actors.

What is the interest of using this concept of organizational work? The analysis by De Terssac and Lalande (2002) is based on the reorganization of an existing company, the management of SNCF

(rail) freight. The reorganization passes through three stages of learning. A first phase called “experimental” covers the invention of new working rules, while a second phase of “generalization” applies it to all equipment and facilities. Finally a third phase of “differentiation” adapts this pattern to specific projects. For them, according to Reynaud’s preface, “organizational learning is not a long river, it is characterized neither by the continuity of the progression of ideas, nor by harmonious collaborations nor by an equilibrium of power”.

In a concluding chapter entitled ‘Sociology of the organizational work of maintenance’, de Terssac et Lalande specify the scope of the three phases: “the experimental phase is characterized by learning by trial and error: to invent effective solutions and to test them compared to the objectives; the focus is placed here on experience, practice and observation which builds knowledge of maintenance” (op. cit., p. 187). After this first phase, which aims to seek solutions to problems, the second phase of generalization induces learning by application to indicate that the goal is well known (aligning the production sites on the same pattern and showing the outcome: the objective is to generalize the patterns established in the previous phase (op. cit., p. 188). We will show in analogy that the 35 hours law implemented a generalization of a new pattern of organization, coupled with the collective bargaining of businesses. Finally comes the adjustment phase, where a learning process takes a third way. “However, there is no questioning of the founding principles: one is in a logic of improved operations at the margin” (op. cit. 189). We will build on the concept of organizational work occurring in three phases to analyze the dynamics of collective bargaining in connection with the legal framework.

Of course we recognize the limits of this approach in relation to national policies covering all businesses. While in an individual company a modernization project can be clearly identified by actors heading in the direction of modernization, or by those who oppose the project, with governments that change and with a wide variety of situations to be resolved it seems more difficult to clearly identify a national-level policy. Instead of using the term ‘modernization’ here, we use the term ‘social change’. Indeed there is a difference between a company and larger territory. The single company gives rise to a form of regulation with clearly demarcated borders, and linkages between projects and production rules. National public policies, however, produce standard-setting covering a range of extremely heterogeneous situations, without an explicit sense of organisational development over time. The great planner does not exist. Social change over a long period in our case is established without being consciously put in place. In sum, this application of organizational theory and the concept of work to collective bargaining - which is a work of negotiation (Dugué 2005) - is of course an ‘ex post’ construction that we use to explore our empirical findings.

2. The organizational work of collective bargaining in five steps: introducing the concept of markets (1982-2002)

The concept of organizational work at a regional or national level raises questions. Indeed, the complexity of this approach is linked to the multiplicity of actors and levels of regulation: the national level and the level of business, the level of legal initiatives and collective agreements. This

association between company and public policy is mediated in many cases by regionalized branch agreements, which redefine the balance between law and company agreements (Jobert and Saglio, 2004). In this paper we report primarily on the interaction between law and company bargaining. The analysis of collective bargaining over a period of 20 years in a French regionⁱ shows the organizational work that was needed to establish a new rule which we call 'market times', (Thoemmes 2006a). This rule was not the automatic result of a process. It has suffered setbacks, especially when collective bargaining did not follow the proposals of lawmakers.

2.1 Genesis (1982-1993)

Working-time laws changed considerably from 1982. The initiative clearly came from the government, combining working-time reduction and flexibility issues. The influence of employers and unions on the different laws remains unclear. While working-time reduction and employment creation have always been union objectives, the give-and-take process related to flexibility was clearly also in the employer's interest. Three legal rules affected the period in question. The order of 16 January 1982 reduced legal weekly working hours from 40 to 39, introduced a fifth week of paid leave, and invented the principle of 'modulation' (varying duration of work over a defined period) to 42 hours per week. The Delabarre law of 26 February 1986 then defined the reduction of working hours as a trade-off for the 'modulation' of working hours. Finally, the Seguin law of 11 June 1987 allowed 'modulation' agreements in which the reduction of working hours was only optional.

This first phase of collective bargaining deals with the genesis of the collective variability of working hours, here specifically the method called 'modulation-annualisation', a varying duration of work over a defined period, especially a 12 month period (2004 Bunel). This concept is understood by us as including several methods introduced over time which institute a "corridor" allowing for the variation of weekly working hours (between 32 hours and 44 hours, for example), and where hours that exceed the average (35 hours for example) are not regarded as overtime. Of course, overtime already allowed negotiators or entrepreneurs to vary working hours, and partial unemployment benefits already allowed for the compensation of employees for loss of employment activity. But the peculiarity of this phase from 1982 to 1993 relates to an early normalization of changing working time (including variability for all) by means of collective agreements. The first types of 'modulation' (1982, 1986 and 1987) indeed included this variability in different forms and conditions within the 'normal and usual' working hours. The variable standard thus first emerged in these laws. The genesis of the particular types were formalized by law and by "exploratory" use by negotiators. But in fact they were rarely used by businesses; few such agreements came through: in our sample there were only 8 such agreements per year.

2.2 Experimentation (1993-1996)

Two laws characterized the next period focussing on the above mentioned give-and-take process and on the possibility of individual time saving. Once again the government drove the changes. The first

was the 'five-year law' of 20 December 1993. It established an extension of the period over which hours of work could vary, and put in place an experimental subsidized incentive to reduce working hours (an annual reduction of 15% in working hours, compulsory reduction of salaries, and recruitment of at least 10%). This was followed by the law of Time Saving Accounts (TSA) of 25 July 1994, which allowed the accumulation of worked hours and days giving rights to extra paid leave. The extra paid leave had to be taken before the expiration of a five-year period. The individual TSA was permitted only within the terms of a collective agreement. The TSA could be used also by the employer to vary within certain limits the effects of a reduction of working hours over a period of several years. The variable standard (modulation) of working hours was linked by the legislature to compensatory methods (reduction of working hours) and to complementary methods (TSA).

The second phase thus begins in 1993, by experiencing a new give-and-take process between working hour cuts and modulation-annualisation. This could be seen as a consequence of the little impact that the latter method had witnessed during the previous phase. It is not that a give-and-take process would not have been possible before, but the innovation of Article 39 of the 1993 Act explicitly laid down a new opportunity to experiment with modulation, combined with the reduction of working hours and employment, funded with financial compensation by the state (Morin et al. 1998). This innovation introduced by the 'five-year law' underlines our analysis of the phase from 1994 to 1996 as 'experimentation' or 'testing' of a new give-and-take process through collective bargaining. However, this did not succeed - the 'testing' failed. On the one hand, it was drowned in a set of pre-existing flexible time mechanisms: the negotiation seemed 'broken'. Indeed, we identified 28 different topics on working time in the agreements. On the other hand, only a few companies proceeded to this kind of give-and-take: the annual rate of use of 'modulation' decreases in our regional sample to only six agreements per year. However, the failure of this experiment laid the foundations for another period initiated by the de Robien law from 1996 to 1998, which succeeded in 'repositioning' collective bargaining in the give-and-take process already suggested by the previous laws.

2.3 Refocusing (1996-1998)

This period covers a single piece of legislation which was very important in influencing the process of ongoing negotiations. This law reflected the organizational learning process that had taken place through company-level negotiation but also through the a back and forth relationship with Parliament. The de Robien law of 11 June 1996 provided state funding where companies created or maintained employment within at least 10% of the original situation while voluntarily agreeing to reduce average working hours by at least 10%. While initiated by the government, this law responded to the demands from local actors, employers and also unions, in a period of economic uncertainty. The goal was primarily to avoid lay offs and to support employment.

From the perspective of company bargaining this third phase, after genesis and experimentation based on article 39 of the 'five-year law', again attempted to establish an exchange: 'reduction' against 'variability' in the framing of a single law (de Robien). Indeed this law focused more strongly on 'jobs' than the previous laws. This time, collective bargaining finally and effectively decided between various mechanisms of temporal flexibility and proceeded to their association with the reduction of working hours.

What changed and why do we consider that this law is a turning point in collective bargaining? On the one hand, certain articles were modified: there was an extension of the period of subsidies, the inclusion of job creation, the reduction of working hours and there was no corresponding obligation to reduce wages. On the other hand, it was a single piece of law with no other intention than focusing on the question of working time. This law profited from a media or publicity effect which, according to some of our interlocutors, played in favour of the acceptance of the method. It promoted a kind of collective 'local time sharing' to prevent unemployment and which tried to end a certain industrial relations log-jam indicated by the low number of company agreements.

Now, although collective bargaining still had 'no obligation to reach an outcome', it effectively moved into a concession-bargaining give-and-take process. The reduction of working hours was traded against modulation-annualisation and established a new standard. In this "refocusing of collective bargaining" phase the variable standard of working time definitely entered collective bargaining. New agreements (one in two) were increasingly negotiated at the regional level over a two-year period: 49 out of 96 new agreements. This time the law was able to induce the desired response in companies, but without becoming a systematic or a widespread form of agreement. However, the total number of agreements remained at a relatively low level (48 new agreements per year).

Let us summarize this evolution: genesis, testing and refocusing can be used to describe the phases of negotiations induced by the law. These phases led qualitatively and quantitatively to the production of a new type of agreement. The pivotal position of the de Robien law can be seen to have highlighted the exchange of working time cuts with the maintenance of employment to enable the greater use of flexible time arrangements. One could say that in a particular context the law created the conditions for a more favourable response by companies: based on clear commitments in terms of jobs, on an extension of the duration of the subsidies (up to 7 years) and without obligation to reduce wages. But wage moderation was also experienced in this phase. Some agreements limited wages increases in future years. Under these conditions, the unions seemed to accept some flexibility related to the variability of working hours in order to maintain or create jobs. The 'variable standard' effectively entered collective bargaining.

The genesis, experimentation, and refocusing are subsets of the experimental phase of organizational work within the analysis of Terssac and Lalande (2002). If we have chosen to qualify these three sub-phases as distinct phases, it is because the orientations of legislators and negotiators

show clear differences between them: the genesis phase is followed by the formal creation of an experimentation phase that lead to a choice between different methods; refocusing then introduces a variable standard of working hours that corresponds to the actual social practices taking place, proposed by the legislature and accepted by the company negotiators.

2.4 Generalization (1998-2002)

The laws on the 35-hour week in France then generalized this new blueprint for collective bargaining, while the reduction of working hours was extended to all businesses. Moreover, the terms of the trade-offs (annualisation, jobs, subsidies, future wage moderation in some cases) clearly derived from the previous phase.

There were two parts to the generalization law. The Aubry law (1) of 13 June 1998 established legal working time as 35 hours per week from January 2000 for companies with more than 20 employees and from January 2002 for the rest. The subsidies given to companies were related to the volumes of employment created. The Aubry law (2) of 19 January 2000 set a ceiling of a maximum of 1,600 hours per year, without any obligations on employment volume. From a collective bargaining perspective this fourth phase can be viewed as the generalization of the new action plan for collective bargaining. The 35-hours law of 1998 moved the situation from ‘voluntary’ to ‘mandatory’ negotiation. The pressure exerted by the spectre of legally-enforced reductions in working time promoted company-level bargaining. It also disseminated widely the new general standard in business. The agreements followed in the path of previous de Robien agreements: significant reductions of working hours, state subsidies and variable norms of duration. In our sample of 1,232 new regional agreements (Aubry law 1 and 2), two out of three companies, more than 800 companies, agreed modulation-annualisation mechanisms. Only 37.9% (under Aubry 1) and 30.7% (under Aubry 2) of agreements did not introduce this type of mechanism.

2.5 Differentiation 1998-2008

The fifth phase of differentiation begins at the same time as the generalization in 1998. With Aubry 1 and 2, this phase went beyond the time extensions given to very small businesses to implement the law. The laws also created three different categories of managers (those time measured in hours worked, those measured by days worked and those whose working time was not measured at all) (Aubry 2), and allowed exceptional treatment for certain industries. The assumption was that the generalization needed adaptation to different contexts in order to become effective. From an organizational point of view, this phase of differentiation should not be seen as inconsistent with generalization, since in our view, the global objective is not only to generalize the reduction of working hours, but also to promote ‘market-times’ including in this specific form, its variability, employment and state subsidies.

Does this interpretation of a change in pattern of action apply to newer developments regarding overtime for example? We believe that we are still in the stage of differentiation of the legal rule and are neither in a phase of abandonment of the 35 hours, nor in the case of a return to a process of

rationality putting "health" and well-being at the centre of discussions which had opened up the reduction of working hours 150 years ago. Without being able to push our analysis beyond our regional sample of the 2000 agreements of the period 1982 to 2002, we believe that recent developments nonetheless reinforce our analysis on two points.

Firstly, laws and decrees on overtime in recent years have opened the possibility of increasing the quota of overtime and of further fiscal subsidies regarding over-time (no more income tax on overtime). Recent laws could result in an extension of real working hours (Laws 2005-296, 2007-1223). However, this type of extension of working hours does not change the legal duration of work (remaining at 35 hours a week) and they are perfectly in line with the variability of working hours. The legal duration has not changed but its potential variability is expanding with the increasing use of traditional means (such as over-time).

Secondly, collective bargaining has produced some emblematic agreements in the region demonstrating the new logic of 'market-times'. Thus recently an important subcontractor to the auto industry reached an agreement on a working week of 38 hours per week without derogating from the 35-hours law. The additional quantity of work performed by each employee was actually placed on a time savings account and called 'time capital'. This account was maintained for several years (2008, 2009), until the company, for the purpose of reorganization, gave the time back without any individual choice for the employee (2009, 2010), thereby absorbing the voluntary accumulated leave (company agreement, July 2007). This was an example of 'market-times' based on a time savings account on a multi-year time horizon. A new standard driven by the needs of production has entered into a collective agreement.

The entire cycle of organisational work we described is coming to an end. The phase of differentiation will perhaps initiate a new cycle. The 35-hour rule could be abolished, but what would happen to the give and take process which promoted flexibility? The variability of working hours and the issue of labour and product markets could survive the abandonment of the reduction of working hours. Certainly, we could see a return to a focus on diminishing the legal duration of work "in itself" (before 1982), or we could experience its extension. The first option seems unrealistic given the initiatives in favour of over-time and given the recent political pressure against further working time reductions. Nevertheless the current crisis could provoke a new debate on further working time cuts. But this would be compensated for by new market related mechanisms as shown by the Aubry law. The second option, the unconditional extension of legal working-time, would change the terms of trade between unions and employers and its legitimacy would also be viewed differently. It would be hard to explain why the unions would accept giving up the advantages of working-time reductions in favour of accumulating flexible market related mechanisms alone.

3. Discussion

An analysis of collective bargaining over 20 years shows that the negotiators have not complied with a planned political initiative that would have produced a new rationality for negotiation. Rather, this result was achieved by trial and error and a give-and-take process including changes in the legal framework. Negotiators are framed by legal action, but retain their freedom to change and to interpret it. This is precisely the purpose of the phases that we have identified.

We discussed successively five phases of the negotiation of company agreements: genesis, experimentation, refocusing, generalization and differentiation of the rule. The rule has been produced by law and by collective bargaining. Its meaning can be seen as the arrival of market-times, and as another way to negotiate labour conditions. The first element of the rule is related to the introduction of mechanisms to implement and control the variability of working hours (variable standard or norm). The second element concerns the issue of employment, including its stabilization. This new articulation of labour and product markets is gained by reducing the duration of work and has been heavily subsidized in the past decade. Negotiators could very well have had recourse to a shift to part-time work, night work and weekend work as traditional forms of precarious labour. This is not the option that the negotiations that we have discussed put as central.

Although the new scheme of action is also a generalization of temporal flexibility, it is by no means an obvious shift to 'standard forms of insecurity or precarious work'. Employment stability, with the control of variability of working-time circumscribes the new pattern of collective bargaining: the rationality of the negotiation process has shifted from health to markets. This perspective suggests analyzing collective bargaining as the scope of an exchange between groups who have to take into account changing environmental conditions. This view of negotiation as a combination of the effects of markets and the production of arrangements seems fundamental (Kochan, Katz and McKersie, 1986). Working time has been the tool of choice for spreading 'market-times', under specific conditions, to a large number of French companies. The five phases of organizational work which led to this new scheme are certainly only one way to describe an evolution in the long run. From an analytical perspective we are dealing indeed with an accumulation of specific practices, an aggregation of partial results, framed by laws, and produced by variable groups, political parties, unions, employers and governments. One cannot easily compare a region or a nation to a productive enterprise in which 'modernization' may pursue an objective involving all parts of the company (De Terssac and Lalande, 2002). Yet the advantage of using the concept of organizational work is, in our view, its heuristic value, based on longitudinal analysis, the line of laws and negotiations, the analysis of their parentage and the learning process even through the boundaries that usually separate groups. Companies have interpreted the legal framework reflecting at the same time the concerns of local negotiators. We are certainly experiencing a shift of the production of standards to the company and to the local businesses. Negotiated public action (Groux, 2001) has more a sense of encouragement of negotiation, rather than a rigid and unifying law. The instruments are the laws on working time (Lascoumes and Le Gales 2004), but also the various agreements that have been

formulated through an effective ‘work of negotiation’ (Dugué 2005). Indeed, collective bargaining did not always follow particular incentives and legal recommendations. This view suggests a focal area for collective action. Negotiators have felt that the ‘market’ is an area of compromise and conflict, not just an ‘external pressure’ (Haipeter and Lehdorff, 2004). The market is not an external reality, but a stage upon which social groups operate (Chessel and Cochoy, 2004).

In sum, if working time over 20 years of collective bargaining has been emancipated, a longitudinal study of more than 2,000 enterprise agreements shows a change of substance. We observed a trend for collective bargaining to replace an emphasis on action related to the health and well-being of the worker, to one related to priorities determined by markets. The rationality of the action has changed. This does not mean that all protection for people at work has been abandoned, but that a change of perspective and preferences has nevertheless been made. This change of perspective does not favour precarious work in the traditional way: part-time, temporary work, temporary unemployment or other forms of precarious contracts. This change concerns a far bigger number of employees. The point is that the majority of ‘non-precarious’ employees are submitted to the new regime. In other words the core of the workforce is experiencing market-times, because the change was made through law and collective bargaining. Finally, the market-times bring us back to the globalisation. As we showed recently (Thoemmes 2008), the German automaker VW, while having a completely different system of industrial relations, seems to be taking a similar route. German companies are adopting more and more market-times without being as systematic as in the French case. Other societies can experience market-times in different ways. We think, nevertheless, that collective bargaining is necessary to establish new rules. This is especially the case over measures in favour of employment and offering protection against unemployment, which cannot be negotiated or explained with a theoretical conception that markets are ‘out of control’. On the contrary, regulation was necessary to establish the scheme of action in the French case. One might call this ‘negotiated globalisation’.

NOTES

ⁱ This paper reports on a series of studies on company bargaining in a region of southern France over two decades. In all, we had access to an exhaustive sample of 2000 agreements covering the period 1982 to 2002. Partial results were published either in the form of reports, articles or book chapters. The objective of this paper is not to go into the detailed analysis made during these four studies, but rather to submit for discussion a sociological assessment covering the whole period.

References

- Bunel, M. (2004). "Modulation/annualisation dans le cadre des 35 heures: entreprises et salaires sous contrainte". *Travail et Emploi*, 98, 51-65.
- Chessel, M.-E. & Cochoy F. (2004). "Autour de la consommation engagée. Enjeux historiques et politiques", *Sciences de la Société*, 62, 2-4.
- De Terssac G. (2003) – Travail d'organisation et travail de régulation, par in : de Terssac G. (2003, sous la dir. de). – « La théorie et de la régulation sociale de Jean-Daniel Reynaud : débat et prolongements », collection « Recherches », éditions la Découverte, Paris.
- De Terssac G. (2003, ed). – « La théorie et de la régulation sociale de Jean-Daniel Reynaud : débat et prolongements », collection « Recherches », éditions la Découverte, Paris.
- De Terssac, G., & Lalande, K. (2002). *Du train à vapeur au TGV. Sociologie du travail d'organisation*. Paris: PUF.
- Dugué, B. (2005). *Le travail de négociation*, Toulouse: Octarès.
- Dunlop J. (1958), *Industrial Relations Systems*, University Press Carbondale, Southern Illinois.
- Ferner A., Hyman R (1992 ed). – *Industrial Relations in the New Europe*, Blackwell Publishers, Oxford, UK, pp. 15-45.
- Fridenson, P. (1993). Le temps de travail, enjeu de luttes sociales. In : J. Y. Boulin, G. Cette , D. Taddei (Eds.), *Le temps de travail* (pp. 19-28). Paris : Syros « Collection Futuribles ».
- Grossin, W. (1969), *Le travail et le temps*, Anthropos, Paris.
- Grossin, W. (1992). *La création de l'Inspection du travail*. Paris : L'Harmattan
- Groux, G. (2003). – « Relations professionnelles et principe d'autonomie. Le conflit comme régulation », *L'Année sociologique*, 2, 515-534.
- Haipeter,T., & Lehndorff, S. (2004). *Atmende Betriebe, atemlose Beschäftigte?* Berlin: Edition Sigma.
- Jobert, A., & Saglio J.(2004). "Ré-institutionnaliser la négociation collective en France." *Travail et Emploi*, 100, 113-127.
- Kochan, T., & Katz, H., & McKersie, R. (1986) *The Transformation of American Industrial Relations*. New York: Basic Books.

- Lascoumes P., & Le Galès, P. (2004). Introduction : l'action publique saisie par ses instruments. In : P. Lascoumes & P. Le Galès (Ed.), Gouverner par les instruments.(pp.11-44). Paris: Presses de la Fondation nationale des sciences politiques.
- Morin M.L., & de Terssac G., & Thoemmes J. (1998). "La négociation du temps de travail: L'emploi en jeu", Sociologie du Travail, 2, 191-207.
- Reynaud J. D. (2002). "Préface" in De Terssac, G., & Lalande, K. (2002). Du train à vapeur au TGV. Sociologie du travail d'organisation. Paris: PUF.
- Reynaud, J.-D. (1979). "Conflit et régulation sociale. Esquisse d'une régulation conjointe." Revue française de sociologie, 20, 367 376.
- Thoemmes, J. (2000). Vers la fin du temps de travail ? Paris: PUF.
- Thoemmes, J. (2006a). Les 35 heures en rafales. In J. Thoemmes & G. deTerssac (Ed.). Les méthodologies d'analyse du temps de travail, Toulouse, Octarès.
- Thoemmes, J. (2006b).L'avènement du temps des marchés. La négociation du travail sous influence. Thèse d'habilitation à diriger des recherches en Sociologie, 2 tomes, Toulouse, Université Toulouse-Le-Mirail.
- Thoemmes J., (2008).- L'évolution d'une règle d'organisation sur 10 ans : l'accord collectif chez un constructeur d'automobiles en Allemagne, Sociologie du Travail, volume 50, numéro 2, pp. 219-236.