

***The institutional foundations of “labour conventions”
in France between the wars***

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One current opinion sees the inter-war period as a time of work rationalization (Moutet 1995). Rationalization first appeared as a kind of “great national cause,” supported by the Confédération générale du travail (CGT) in the debates of the national economic council, and then later as a movement to reduce employment effected by the crisis. The great strikes in May and June 1936, accompanying the election of the Popular Front (“Front Populaire”) majority in the French deputy chamber, could therefore be seen as the result of the contradictions of this rationalization, contributing to the creation of large masses of workers threatened by unemployment (Boyer 1986). However, this social movement shows that the first strikes took place in those sectors which were the least effected by rationalization, including armaments production and the aeronautics sector, which were centers of small-series production with a significant amount of innovation. Collective bargaining in this sector could well be seen as the drawing up of specific “labour conventions,” marked by “artisan-type” work (Didry and Salais 1993).

Thus rationalization’s influence on the strikes of the Popular Front may not be as clear as is held in commonly accepted social history, where the formation of large masses of workers is taken as a decisive factor. One could certainly consider the launching of these first strikes in the less rationalized sectors as a form of resistance to rationalization, based on the very nature of the work involved. Without denying the importance of this dimension of resistance,² it should be noted that the inter-war period was also marked by important developments in labour law. These years were indeed marked by the interventionist legacy of the war economy, the 1919 adoption of the first law on collective bargaining agreements and another law on working hours. In addition, the last two books of the Labour Code (“Code du travail”) were adopted in 1927. Finally, a social insurance system was created in 1928. How should this important legislative activity be analyzed in a context marked by a significant decline in social conflict and collective bargaining

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² Demonstrated by Moutet (1996) for the region of Saint-Etienne.

and prior to the “social explosion” of the great strikes of the Popular Front? Did it meet the need for increased protection of workers in the face of an increasingly difficult work organization? Might we not also see in this a wider “investment in forms”³ enabling a real definition of “work”, “labour” or “employment”⁴ in the most varied forms of productive activity, in particular that of the “individualized worker” whose condition up to that point had varied from self-employment to that of a wage earner? Would that explain the dynamism of the less rationalized armaments and aeronautics industries in the metallurgy sector as well as in the Parisian garment industry?

By implementing the new “form” of the “employment contract” (*“contrat de travail”*) in the most varied situations, in both industrial and commercial establishments as well as in the case of “isolated” workers working at home, the War and the social legislation of the 1920s contributed to defining a specific area of uncertainty concerning “work” in relation to a purely commercial uncertainty related to the product's ability to find a buyer. The now common reference to an “employment contract” is used to link together all those who could be designated as “employees” of an “employer”, that is to say, of the management of a more or less distant “firm.” In this sense, it reinforces the “distinction between production and trade” (Salais 1994, 376), to arrive at an empirical definition of the “firm” as “a collective mechanism which, by producing a product, prepares the test of selling it to an external buyer, *a condition of its success.*” (Salais 1994, 380). How then do these developments furnish a partial explanation of the scope of this great social movement which started in 1936 in that part of the productive world which was rather far from that of large rationalized companies? On the basis of this first extension of the employment contract in the workforce, it is possible to see how collective agreements “by branch” played a role in “writing” the various “labour conventions” that emerged.

State-regulated work organization during the War

The first decade of the twentieth century was marked by a major legal upheaval, based on a reinterpretation of the law beginning with “labour” (*“le travail”*). The starting point of the legislative reflection leading to this employment contract was a criticism the Civil Code (“Code civil”), a legacy of the Revolution, as the elementary grammar of social interactions in a society of free men. It was considered to be an expression of “natural law” which protected the freedom of individuals in their various interactions by reducing them to a contract on the basis of a civil status derived from a patriarchal family architecture. Its goal in the field of productive activities was thus to limit the risk of abuses arising from “domestic service” (“domesticité”) seen as an

³ This concept has been advanced by Thévenot (1984), for whom “investments in forms” primarily mean new forms of the definition of work prior to its rationalization in an industrial world. Beyond these “private” investments in forms, legislation should be considered as a “public” investment in forms, with a general meaning across the different worlds of production.

⁴ Referring to the French word “travail”, which means work as productive activity, but also labour in law (“Code du travail”) or employment in “le contrat de travail”.

attack on individual freedom (Cottureau 2002). The solution found to guarantee a “real renting contract” (“vrai louage”) has been a legislation on the “jobs contract” [*louage d’ouvrage*] centred on the job, i.e. the *result* of the productive activity ordered by a merchant. By starting with “labour” as the object of the transaction, the promoters of “labour law,” in the form of a “Labour Code” or a draft bill on “employment contracts”, intended undermining the involved complex architecture inherited from the Revolution. Instead of a “jobs contract” [*louage d’ouvrage*]—establishing the rights of skilled workers to organize their own activity (a “jobs and industrial contract” [*louage d’ouvrage et d’industrie*] based on payment by the job) involving eventually the hiring of unskilled workers on a “service contract” [*louage de services*]—and a variety of contracts (commissions, licences) applicable to employees and engineers, the “employment contract” [*contrat de travail*] is presented as a common frame of reference for workers linked to the same “employer.” This contract describes the individual relationship that develops between all those involved in the same productive activity and the person who is designated as the “employer.” This contract undermined “labour sub-contracting” [*marchandage*], another name for the *louage d’ouvrage et d’industrie*, and was defined by its general scope, going beyond the world of the worker by integrating employees, foremen, technicians and engineers.

Theoretical Preamble

It implies to see law not only as a public decision imposing new obligations to the citizens, but as a reference or a framework for the actors resulting of collective discussions centered on the Parliament which became essential in the Third Republic. If law has to be seen as a “framework” for the social interactions, it implies also to enter the “institutional matrix” which remains a “black box” governed by pressure groups, according to the New Historical Institutionalism in the version of North (1991). It justifies to analyze the elaboration of law as a specific “world of production” (Storper and Salais 1997), in which several “possible worlds of law” compete and contribute to the compromise that represent new laws adopted by the vote of the Parliament⁵.

It raises the need to consider the tensions of what Max Weber (1978) presents as the “formal rationalization” of law resulting from the permanent attempt of the jurists to systematize the juridical rules, i.e. based on what he names a “juridical point of view”. In the case of France, one century after the Revolution, it corresponds to the dominant “possible world of law” (at that time) aiming at conceiving law deductively from the basic rights of the “free men” instituted as such by the civil code, i.e. as householders responsible for the family’s minors (women and children). This possible world echoing to the political liberal right wing, is challenged by a “material rationalization” based on the attempt to maintain the “dignity” of men threatened by industry, with what is called at that time the “industrial legislation” limited to industrial estab-

⁵ Based on a cartography of the “possible worlds of law” presented by Didry (2002, 39) and Didry (2013, 68).

ishment. This possible world aims also (as “rationalization”) at a systematic regulation, based on the defense of the society, the race or the divine nature of man as God’s creature, and tends to be marginalized by the first one (the world of the “pure jurists”). In this tension between “formal” and “material” rationalizations, the “labor code” is a way to loose the rationalization and can be seen as such as a trend towards an irrational law (a third possible world of law based on what Weber calls the “Kadi Justiz”). It starts from a social emerging reality, work, seen by socialist politicians (e.g. deputies in the chamber) and sociologists (e.g. Durkheim) as a principle of society’s organization. Law is seen here as a tool to define this emerging reality, through its mobilization by the actors (namely the “employee”, i.e the one who conceive herself as such, and the “employer”) and the answer of the judge. It leads to precise the emerging rights of the individuals involved in this “legal situation”, which evokes what Simon Deakin presents in this *HSR* issue as “reflexive law”. In my view, this third possible world of law echoes to the political impetus coming from the socialist deputies (such as Arthur Groussier who proposed in 1898 a first version of a “labor code” in the Chamber or Alexandre Millerand (future minister for trade and industry)). It becomes the basis of the successful compromise proved by the vote of the Book 1 of the Labor Code in 1910, and by the vote of the law on collective agreements (“convention collective”) in 1919.

Thus, Law has to be conceived as a “juridical device”, a public “investment in form” not directly derived from the “industrial world” as in Thévenot’s view (Thévenot 1984), but from the more general (and deliberately vague) concept of work/labor. It becomes then an institution understood as a reference for the actors in their interactions, enabling these actors to qualify their situation as “work/labor”. It leads to a distinction between institutions and economic conventions (Bessy 2012; Diaz-Bone 2012), institutions being taken progressively by the economic actors themselves as categories enabling to precise the “common knowledge” of the conventions they participate in. But the dynamics of legal institutions, though distinct from the economic conventions, is entangled with them. New laws, even in the form of draft legislation, are bringing new categories i.e. new ways of conceiving the situations in which they participate, for the actors. In 1914, the “employment contract” has recently entered the legal language since 1910, with an article in the Labor Code, which merely took the former duality of the “service contract” and the “job contract” as two forms of compensation. The war made the organization of uninterrupted production to feed the front a necessity and led the state to strengthen this new vision of labour relations through a first generalization of the employment contract.⁶ Instead of conceiving industrial facilities as the aggregation of small teams placed under the authority of a job taker, the employment contract, as the common status of those who work for the same em-

⁶ David Stark suggests a similar process in the U.S. economy at the time of the First World War: “In order to achieve its goal of uninterrupted production the state was forced to take steps to reduce the threat of strikes, lock-outs, slowdowns and other forms of industrial disruption.” (Stark 1980, 107). In particular, these included challenging the power of skilled workers (“craftsmen”) over the organization of production.

ployer, enabled to see the plants as groups mixing workers, foremen, and engineers. This generalization occurred first in the armament industry and it also affected home seamstresses involved in the production of uniforms.

The organization of a war economy and the “Millerand decrees”

The industrial mobilization which necessarily flowed from the prospect of a protracted conflict, functioned under the auspices of the undersecretary of State for armaments, Albert Thomas, on the basis of the decrees of 10 August 1899 which fixed the work conditions to which public procurement contractors agree to abide, severely limiting subcontracting and prohibiting *marchandage* [labour sub-contracting] i.e. the former civilian “job contract”. These decrees issued by Alexandre Millerand, then minister of trade and industry, had hitherto been barely enforced. But they took on new importance with the war through the unprecedented weight of public spending under the leadership of Millerand, who had become Minister of War, and of his undersecretary of State, Thomas. The undersecretary of State for armaments thus worked for the organization of arbitration procedures in the armament industries. It was in this context that the joint committees, such as the Joint Commission of the Seine, were created and put in charge of reviewing the implementation of the ministerial decisions on rates.⁷ The activity of these commissions was relayed into the industrial establishments by the “shop stewards” [*délégués d’atelier*].

In 1917, the decision of the Commission of the Seine regulating wages for war production in the Paris region went even further. It no longer limited itself only to noting the average conditions: it enforced compliance to a specific form of compensation, presented as most likely to generate the workers’ maximum efforts. By such a decision, the state tended to interfere directly in employer policies, even create new ones. This decision cut wages into three elements. The first wage element was the *salaire affutage*, that is, those wages guaranteed to the worker based on his hours present at work. The second element was a bonus system that a worker could earn by exceeding average productivity. These were both hourly rates: in cases of piecework wages, the employer had to show that the wages corresponded to the minimum hourly rate specified by ministerial decision. A third element was added to the first two: a cost of living bonus, calculated on the basis of the cost of living observed in different constituencies. Working conditions were defined on the basis of the earnings of an individual worker, seriously undermining the model of a “specialist” surrounded by a group of workers who he paid out of what he received for the items produced, in a system which looked very much like a *marchandage* [labour sub-contracting]. Workers were individually linked to the management of the institution where they worked, based on what looked like an “employment contract” even if the male workforce consisted of soldiers assigned to their jobs.

⁷ On the establishment of these mixed commissions, see Oualid and Picquenard (1928).

The case of home seamstresses

World War I also changed the situation for those workers who were at the heart of the “sweating system,” supplying the clothing departments in department stores: the home seamstresses. The *midinettes*, as they were then called, i.e. in English, the working girls, were also involved in the war economy, through the production of uniforms. But they remained free to strike, and through their collective actions precipitated the adoption of the much-discussed law instituting a minimum wage in the garment industry.

The act of 10 July 1915 set up two bodies in every region and garment specialty to establish minimum working conditions. The first body, the wages committee, determined the minimum hourly wage. A second body, the professional expertise committee, determined the production time for items given to home workers in order to establish a rate on the basis of the initial hourly wage which would be applicable to home work. The act also provided that “any manufacturer, contractor or intermediary, who has the above referred work done at home, must notify the labour inspector and keep a record showing the name and address of each worker thus occupied” (article 33 a). The worker then had to fill out a notebook indicating the nature of the work performed. A law of 11 June 1917, supplementing that of 1915, organized the “Saturday afternoon rest” in the garment industry.

Both laws represented a revolution in an occupation hitherto subjected to a system of multi-stage sub-contracting. The main contractor was now clearly identified and held responsible for the payment of wages, making him an “employer.” Salaries were no longer piece work wages, but were now paid by hour. In short, the working girls had entered the age of the wage earner.

In the context of a war economy, the state played a major role in introducing a global view of *labour* into the armaments industry, organizing the cooperation of workers on the basis of their skills. Decisions by the mixed commissions of conciliation and arbitration provided the basis for collective negotiations undertaken to prepare the return to peace, seen as a “return to normality,” though World War I has led to a major change in the definition of labour. We see here a process going beyond an economic causality, in which the need for an uninterrupted production has been answered through the implementation of the employment contract as a relevant legal reference in the situation. But around this core, dominated by this orientation towards the importance of a “technological” product such as armaments, a more general process of discovery of work was underway in a productive world more marked by “interpersonal” and “market” dimensions as in the case of the home-based seamstresses.⁸

The employment contract in the post-War World

⁸ From the cartography of the worlds of production, see Storper and Salais (1997, 33).

Peace marked a return to a longer-term process in the discovery of the employment contract which, as before the War, was advanced by social welfare legislation. This legislation introduced a relatively unified view of work as a period of life by regulating its duration, leading to a clarification of the relationship with an employer in the case of social protection in work accidents and in social insurance. It shows how the development of new legal institutions impacts the existing ones, not only in the lawyers sphere, but also in their mobilization by the actors in their current interactions: social welfare legislation intensified the reference to the employment contract, in order to determine who was submitted to the newly created obligations in terms of working time or social insurance coverage.

Working hours

During the nineteenth century, legislation on working hours was part of a system of regulations that responded to concerns which aimed at protecting those social groups seen as the most vulnerable to the physical and moral degradation, resulting of excessive working time. The act of 28 March 1841 prohibited the employment of children, and the act of 2 November 1892 regulated women and children's working time in industrial facilities. However, these regulations remained outside of productive activities centered on the "job" which fixed payment and which resorted to frequent use of "helpers" hired by the most skilled workers. Depending on the job being done, with the use of casual workers as well as of their family members, this largely limited management's control over child labour and over working hours which were themselves secondary for a working population trying to earn enough.

With the emergence of the employment contract, the regulation of working time took on a specific importance, helping define this strange object of the transaction which is tied to the employment contract, the work itself. Work appears as a specific activity in the worker's life in isolation from family and leisure activities. Union demands for the eight-hour day were thus based on a broader vision of the worker's life, linking together eight hours of labour to eight hours of personal activities (family, leisure) and eight hours of rest.

The act of 23 April 1919 establishing the eight-hour day was a turning point, whose success owed a great deal to the employment contract. This helps explain why "basically, the 1919 law on the eight-hour day seems to have been the first law on working time to have been more or less respected" (Fridenson 2004, 67). The law helps define work as having a specific duration, by placing it in a specific area appearing in the amended article 6 of Book 2 of the Labour Code, the *establishment*: "In industrial or commercial establishments and their dependencies of any kind, whether public or private, secular or religious, and even if they have the character of a professional educational or charitable institution, the real working hours of workers or employees of one or the other sex and any age may not exceed eight hours per day, forty-

eight in the week, or an equivalent limitation established over a period of time other than the week.”

But while the length of time appeared as a central element in the definition of work, the working hours resulting from this regulation led to the discovery of a new, and in some ways unique, foundation as compared to the logic of jobs and crafts: that of the “branch” or “industry.” Indeed, it was expected that the implementation of the law would result in “government regulations,” “determining by occupation, industry, trade or occupational category, for the whole country or a region, the limits and conditions of the preceding article” (article 7, amended, of title 1, book 2 of the Labour Code). Whether we talk about the branch, occupation, industry or occupational category, the important thing here is this conception of the establishment within larger entities that emerges from a vision of the economy as a whole, through the economic classifications on which the census was based. It is at this level that employers and workers’ organizations would have to be consulted in the development of these regulations.

While the “occupation” or the “industry” seems to be the appropriate levels of negotiation, it is because we can see the beginnings of a real interrogation of the relationship between working time and wage, which, without going as far as a time/wages equivalency, opens up an inquiry into the organization of work. Metallurgy was the vanguard in the implementation of the eight-hour day, with a national agreement reached on 24 May 1919. This agreement fixed an eight hour day for 6 days, and allowed for one Saturday afternoon off per fortnight.⁹ Maintaining wages meant formalizing a time/wage equivalency which remained a problem for the “workers working on piece work rates, on sub-contracting.” For the latter, two sub-categories were presented:

“a. The time given for individual *marchandage* [sub-contracted labour] or for articles measured in “time” will be reduced in principle in direct proportion to the reduction of working hours, the hourly rate [*salaires affutage*] being revised in inverse proportion [...].

“b. In principle, labour sub-contracting in francs and the piecework rate in francs will not be changed automatically by the application of the eight-hour day [...].

Each industrialist will have to examine the piecework rates, bonuses and labour sub-contracting applied in his establishment, to find to what degree the workers can maintain in a reduced working day the average daily production which they normally produced in the six months prior to the enactment of the law.”

Thus the legislation on the eight-hour day finally contributed to inscribe employment contracts in industrial and commercial “establishments.” It tended to reduce the *marchandage* to one form of compensation in a context of rationalization in which there were an increasing number of wage systems. But gradually and in various ways, the world of industrial work learned about time/wage equivalency.

⁹ Presented in full in *Le Temps* of 29 May 1919.

Occupational accidents and lumbermen

Social protection legislation was also an important factor in the employment contract's discovery by the actors themselves, especially by those in work situations outside "establishments". Certainly the sphere of activity of the first social protection laws—the laws of 1892 on the work of women and children, of 1893 on health and safety, and of 1898 on work accidents—was limited to what the legislature had designated as "industrial establishments." But specifically, the discussions about a "labour law" which took place at the same time went along with the concerns about opening this social protection to another world. In the case of pre-War lumbermen considered by Pigenet (1994), in order to obtain the benefits of the law of 1898, it was necessary to stop seeing logging as a "harvest" and to analyze the "cut" as a "work site" or "establishment." Henceforth, the union changed its perspectives with the aim of freeing itself from being involved in the organization of work, which made it appear as the "employer" of lumbermen, the negotiated rate appearing as a sales price. With this perspective, in 1904, "the Federation issued a model contract for each logger, one of whose clauses obliged the *marchand* [contractor] to bear the costs and expenses resulting from a work accident" (Pigenet 1994, 375). But in doing so, the contract defined an individual contractual relationship between the *marchand* and individual lumberman, thus placing the "*marchands*" in the position of "employers."

After the War, based on the 1914 law extending the legislation on industrial accidents to agricultural activities, the question of the responsibility of contractors arose once again, this time in the case of individual legal actions brought by lumbermen who were accident victims. Thus, a lumberman's work in a cutting section, whether or not this was known to the prime contractor, made the former an employee of the latter who, as an "employer," was liable for damages caused by an accident, either to third parties, e.g. a forest fire triggered by a lumberman, or to the lumberman himself, the most frequent case being a lumberman injured by a falling tree. This led the jurist René Savatier to see this as the expression of an "economic and social dependence" which was less the result of the exercise of an employer's authority than it was to the fact that the worker "binds his workforce" to a "master" who was responsible for these adverse consequences of work. Social laws such as the law on occupational accidents seemed to go further than the social protection they established, participating in the definition of an employee's "social condition": "We should not think that one's *social condition* can only be translated juridically into legal *assistance* laws; it determines a considerable number of relations, of civil, commercial or fiscal law, for which we have tried to give an incomplete listing (see our above note, DP 1923 1.5)." (Savatier 1924, 73, emphasis added).

Social insurance

The 12 April 1928 law on social insurance became another important source of employment contract jurisprudence. This foreshadowed the social security system launched at the French Liberation, which established “the social insurance system [which] covers the risks from illness, premature disability, old age, and death and includes a participation in the family expenses as well as those from maternity and involuntary unemployment due to lack of jobs” (art. 1). To secure funding for this insurance, the legislature created an obligation of affiliation by “all employees of both sexes whose total annual compensation of whatever nature, excluding family allowances does not exceed 18,000 francs.” (art. 1§ 2) This affiliation would be “made in the *département* [regional administration] by the social insurance office who will register the insured and issue a personal social insurance card” (art. 1§ 3). It included the payment of a fee amounting to 10% of wages, up to a maximum of 15,000 francs, divided between the employee and the employer. Litigation resulting from the application of this law would be subject to a “departmental commission” headed by a justice of the peace (art. 63§ 1). Litigation is brought in first instance before this commission which aims at conciliation before judgement. Its decisions are subject to appeal before the civil court to which the justice of the peace is attached, and can then be appealed to the Court of Cassation.

The “social contribution” established by the law defined “those subject to paying the contribution,” that is to say all holders of an employment contract and their “employers.” It is in this context that Paul Pic, a jurist from Lyon, theorized what in his view was an attempt by the judges to limit the conditions of access to a form of social protection, paving the way for what he considered to be a form of “*assistanat*” [systematized welfare assistance] and disputing the too “lenient” interpretation of the administration. His goal was to determine “the legal criterion for clearly differentiating the service contract [*louage de services*] (employment contract), from the job contract [*louage d’ouvrage*] or the corporate contract, or the *mandat salarié* (commission)” (Pic 1931, 121). In contrast to the theory of economic dependence which, we have seen, tends to unify the categories of the Civil Code, Pic advanced the theory of “legal dependence” or “legal subordination” which he describes as the commonly accepted theory in jurisprudence “despite some hesitation,” up to the implementation of the law on social insurance.

He based his view on the 6 July 1931 Bardou decision in the case of a manager of a subsidiary of a commercial food company. This manager claimed that he was not subject to paying the contribution because he was not an employee insofar as his work was not subject to any hierarchical authority. He successfully won his case in the decision of the Court of Cassation which reaffirmed a judgment of the Civil Court of Toulouse. Paul Pic again defended this thesis in a case involving home workers which was settled by three judgments in 1931. These decisions related to a ribbon manufacturer from Saint Etienne (tribunal civil de Saint Etienne), workers working in caning chairs in the department of the Ain (tribunal civil de Belley), and

garment workers working for a tailor (tribunal civil de Lyon). They decided that such home workers were not employees, but “*loueurs d’ouvrage*” [job contractors], and thus exempt from liability to social insurance. In 1932, decisions by the Court of Cassation challenged this position, considering that home workers who worked regularly for a “*maison*” [firm] should be regarded as subject to social security contributions. This debate was decided by the legislative decree of 28 October 1935 extending compulsory insurance to all those French who worked for one or more employers, thereby giving a broad view of the employment contract based on the observation of an exclusive relationship between the worker and a certain number of employers.

Falling within the framework of the new Labour Code, post-war “social” legislation tended to generate a process of “discovery” of the employment contract for those working in “establishments” as well as for “isolated” workers (working at home) attached to an “establishment.” It thus supported the process of the “rationalization” of work and even, in the case of working time, encouraged it. But more than just basing the rationalization of work in “industrial worlds of production” (as defined by Storper and Salais, 1997), this broader discovery of the employment contract helped define the identity of “employees” through all the worlds of production. In this sense, it appeared as a kind of “public investment in form.”

Collective agreements in situations

The employment contract provided a unified view of the personnel of an establishment. This raises questions about how the different personnel categories are coordinated and interconnected in work and in social conflicts. This also leads to considering how the staff representatives concerned formalize these categories into more or less successful classifications. But this collective dynamic, which is pointed to by the demand for “workers’ control” of the work place, was also accompanied by a mobilization of “individualized workers” whose employment contract helped them connect to a community of workers. Thus the Popular Front strikes, far from being limited only to industrial establishments starting from a core of highly skilled armaments workers, showed an equally pioneering, but now forgotten mobilization of the home-based garment workers whose social movements had already hit the headlines during the World War I.

The establishment: new centre of the union strategy of “workers control”

Along with the “discovery” of the employment contract, the idea of “workers’ control” can be found throughout the inter-war period in the policies of the CGT, followed by those of both the CGT and CGTU (Confédération générale du travail unitaire) after the 1921 split. But for the post-1921 CGT, “workers’ control” was only to be seen on a very broad level, as a counterpoint to its 1920 support to rationalization. The “National Renovation Plan” presented in 1934 confirmed this orientation, limiting workers’ control to the management of the nationalized

sector, through a Higher Council of Nationalized Industries and Industrial Councils on a tripartite basis: representatives of producers, of consumers and of the national community.

The CGTU's policy was based on a more "rank and file" approach oriented towards "nuclei" rooted in the enterprise such as those in the minority motion presented at the CGT congress of 1920: "The necessary recovery of French trade unionism will be the result of a reorganization of our unions, establishing more direct links with workers in the shops, worksites, offices and fields [...]. Groups of unionized workers should be formed in every workshop and factory, in wholesale stores and banks, wherever there are men under the domination of an economic minority of profiteers." (Quoted by Dehove 1937, 312) From 1921, the CGTU unions were reorganized around "factory committees" composed of representatives elected by the employees. This form of organization and the objective of a "united action from below" in order to arrive at a "united class front" continued throughout the inter-war period, but underwent significant reorientation in the 1930s. At the 1931 Congress, Alfred Costes, the representative of the Federation of Metalworkers, spoke of a "self-criticism": "What self-criticism should we make concerning the movements? The disorganization and lack of preparation of strikes has long been the main weakness of our organization. We conducted strikes with very narrow strike committees, a total lack of a united front, and these strikes, which were launched based on the workers' discontent but without methodical preparation and organization, were doomed to failure." (CGTU 1931, 167–68). He added, "[t]hat is the new method of our union: the struggle within the factories [...]. Our perspectives are: the development of the struggle. But we must understand that it is to the extent that the leadership of our union works inside the factories that we will succeed on the basis of immediate demands to apply the independent leadership through committees of struggle. You will immediately understand that this implies, as was stated by the comrade from Renault, researching the typical demands, service by service, so that, once they are discussed by the workers, they will form the list of demands and the elected delegates will know what to say. So we have as a strategy, working factory by factory and industrial branch." (CGTU 1931). This new orientation was extended in the following years, both within the CGTU as well as within the French Communist Party (PCF), which partly explains the leadership of communist organizations in the movement of 1936.

Metalworking as a laboratory for collective agreements of the Popular Front

In this context, attention is focused on the metallurgical sector and more specifically on the armament and aeronautics industries, both of which were expanding in the face of the Nazi threat. Union actions were based on the strategy followed by the CGTU activists of developing roots in the factories. At the CGTU Congress in 1935, Doury, an activist in the aeronautics industry, provided an illuminating testimony on these practices:

“Since the beginning of the year, multiple struggles have taken place as a result of the work towards united action undertaken, especially at Bloch, applying the united front tactic. Our comrades have formed a single section comprising workers of all tendencies. By the end of the month, all workers in aviation, both in Hispano as well as at Gnome et Rhône or in Potez, have reached agreement.” (CGTU 1935, 117) This eye-witness account shows the importance of “methodical work,” taking the form of surveys, such as that conducted in early 1936 in the metallurgy sector of the Paris region (Saglio 1988). Thus we see how trade union action went beyond the single question of wage claims, to address work in its various aspects, its organization or job safety, in connection with an analysis of the product.

From this point of view, the conflict at the factory at Forges de la Marine et d’Homécourt in Saint-Chamond (near Saint-Etienne) appears as an example of this practice. This factory produced naval gun turrets which were virtually produced by the individual unit, and had to return to the organizational methods and forms of remuneration practiced during the War in order to meet the military demand. After a five-week occupation supported not only by the communists of the CGTU, but also by the Christians from the CFTC, an agreement was signed 25 November 1935 around three main points:

- a) Wages of skilled workers and others will be classified into three distinct categories;
- b) All hourly wages [*salaires d’affutage*] are raised by 20 %, being deducted from the bonus. (When a skilled worker who, before the strike, had a base salary of 2.80 and who worked to a bonus did not make his bonus, he received only the hourly wage of 2.80. He will now receive 3.60);
- c) Recognition of union delegates. Management will meet with them and no sanctions will be taken for the exercise of their mandate.” (Quoted by Didry and Salais 1995, 128).

The signing of this agreement led to the adjustment of a form of wages based on the Rowan system used in factories during the First World War, from a classification of workers into the categories of “*ouvrier professionnel*” [skilled worker] and “*ouvrier spécialisé*” [semi-skilled worker] established at that time. Through its success, the conflict at Saint-Chamond became a reference in the journal of the United Federation of Metalworkers, *Le Métallurgiste*, at the beginning of 1936.

It was once again in the armaments sector that the 1 May 1936 strikes fully developed, leading to the employer’s mass dismissal of strikers. The movement expanded to other enterprises in the sector in response to the 1 May dismissals, particularly in the aeronautics industry starting with the occupation of the Breguet factory in Le Havre on 12 May. Negotiations began at the end of May, leading to an agreement in the Parisian metal working industry on 12 June. The agreement preceded the adoption of the law on the 24th which made the “branch agreement” the basis for regulation of working conditions by ministerial decree. In this process, the question of the classification of occupations became a critical challenge, first for the Parisian metal work-

ers agreement, and subsequently for the law itself. Built around the figure of the “specialist,” it was the categories of “skilled worker” [*ouvrier professionnel*] and “semi-skilled worker” [*ouvrier spécialisé*] that provided the backbone of the classification:

Article 19. - A) Definitions.

1) It is understood that an *ouvrier qualifié* or an *ouvrier professionnel* [skilled worker] is a worker with a skill whose apprenticeship can be certified by a professional competence certificate, having passed the traditional professional trial tests.

2) It is understood that an *ouvrier spécialisé* [semi-skilled worker] refers to a machine tool operator, an assembly worker, a production line worker, a worker in the forge, etc., whose operations do not require knowledge of a trade whose apprenticeship can be certified by a professional competence certificate.

Given the urgency of the negotiations, the big classification system which had been announced did not take place in the Parisian metal industry. Minimum wages were presented for each of the specialties of the industry leading to an almost complete but relatively disorderly listing (the prevalence of a “catalogue” logic according to Saglio 1988). Nevertheless the negotiations laid the foundation for a classification system dominated by the figure of the “professional” starting not from the car factories, but rather from the less rationalized armaments and aeronautic sectors. In this process of classification of employees belonging to the same establishment, an annex signed 13 June added that an agreement would be negotiated for “employees, technicians, supervisors and engineers,” which was done on 12 July. The two agreements of the Parisian metal workers industry outlined a system of occupational classification which could cover the entire paid labour force.

Parisian seamstresses as a forgotten vanguard

Parallel to the mobilization strategy undertaken in the armaments industry, the seamstresses in the cities who divided their work between the “fashion houses,” and home and family workshops were characterized by a fighting spirit just as strong as that of their male colleagues. They were not spared by the crisis in the early 1930s resulting in significant reductions in wages. In 1934 Elsa Triolet wrote a report in the communist weekly *Regards* entitled “The smiling industry” which was devoted to them. This was the context when a movement of unprecedented magnitude took place in May 1935 following a further decrease in wages. More than 2,000 Parisian *midinettes* were on strike according to *l'Humanité* of 20 May. Victory was won on 24 May in 21 fashion houses out of 24. The reduction in wages was cancelled, piece-work wages prohibited, and there would be no disciplinary measures against those who had taken part in strike action. They proved the possibility of successful struggles in times of crisis at the CGTU Congress in September 1935 which led to the reunification with the CGT: “There were many strikes in the garment industry, and you all remember the victory of the *midinettes* in the Paris

region, which has developed the spirit of struggle of working women throughout the garment industry in our region,” said Eugène Henaff, head of the Departmental Union of the CGTU (CGTU 1935, 121). In *l'Humanité*, the *midinettes* were the object of renewed interest in 1936. An article of 11 May “When working girls take to the streets,” written while the strikes were spreading through the aeronautics industry, returned to the history of their struggles. It started with an eye witness account: “[...] ‘the strikes that we had to organize in 1917 and 1919 were only an episode in our struggle,’ an older working woman told me. An older woman, without a doubt. Indeed, contrary to what is generally believed, the *midinettes* are not all young.”

Then came the May/June 1936 strikes which preceded the election of the Popular Front majority to the Chamber and of Leon Blum to the Presidency of the Council¹⁰. In the midst of these accumulating strike victories, a small article in the 12 June *l'Humanité*, announced the “Victory of 10,000 *midinettes*” with the signing of a collective contract stipulating the abolition of piece-work wages and a wage increase of 12%. This movement was just as precocious as that of the metalworkers in the unfolding strike wave. The *midinettes* have their place in the workers vanguard which crystallized around the figure of the “*métallo*” [metal worker] (Noiriel 1986). The collective agreement “governing relations between dressmaking employers and their workers in the departments of the Seine and of Seine-et-Oise” was signed on 10 June, two days before the agreement of the Parisian metal workers. This agreement defined the work of seamstresses as “all work requiring one or more fittings, on mannequin or a client, is considered as dressmaking and is regulated by this contract” and classified the work as “only the following categories will be maintained: first hands, skilled second hands, beginner second hand, small hands, first and second year apprentices.” It also aimed at regulating the working conditions of workers and home workers: “In those fashion houses utilizing home labour, such workers should benefit from social laws in the same way as workers employed inside the fashion house itself: the estimate of the hourly basis of work, social insurance, family allowances.

Paid leave. - For paid leave, a compensation fund will be created in the sewing industry in accordance with legal provisions.

Union delegates. - Homeworkers are entitled to have their workers' delegates on the basis of two delegates per 10 or fraction of 10.

Certificate. - Work certificates for all those who work alone, with their spouse or a family member, will only provide, as indicated by the labour code, the names, professional qualifications, the dates of entry and release from the fashion house.

Any certificate, for men or women workers subject to, or who should be subject to, social insurance, which refers to the qualifications of “jobber” (“*façonnier*”), “artisan,” or which refers to “taking custom work” (“*prenant du travail à façon*”) will not be legally valid.

¹⁰ Title of the head of government of the Third Republic, equivalent to “Prime Minister”.

Control of working hours. - Effective control will be exercised in garment industries utilizing home labour, especially in regard to working hours and overtime.”

The garment industry included other agreements such as the agreement of the “Paris regional wholesale industry in collars, cuffs and shirt fronts”¹¹ where there was a series of articles concerning home-work and “entrepreneurs”¹² or that of the “production of raincoats and rubberized clothing in the Seine.”¹³ The contracts aimed at worker sub-contracting and working at home, but without deciding on its outright suppression (Machu 2011, 447). From that point on, the aim was to expose the “false artisans” by submitting this form of production to the social benefits of the Popular Front such as the forty-hour week and paid holidays.

Conclusion: A new “idea of work”?

Taking shape in the late 1930s, this new general context of the employment contract and, in its wake, of labour law in a broad sense,¹⁴ it became possible for the actors themselves to challenge the classification of “individualized” workers as “artisans” negotiating their activity in a “market” as seen in the case of home-based garment workers and later in the precision lathe cutters of the Arve Valley (Didry 1998). In other words, activities that previously fell within the realm of trade, were now brought into participation in *production* prior to the “market test” of the capacity of the finished product to find a social utility through exchange (Salais 1994).

This suggests looking at labour law from a point of view which is distinct from that found in current social history, that is to say, assimilating this right of workers to protection against abuses of “naturalized” wage labour. Its development helps establish this “division” between production and trade which, for Salais (1994, 375), is the basis of an analysis of “labour conventions.” In this sense, it continues the identification of a “conception of work”¹⁵, which is found in embryo in the questions raised by the establishment of social protection legislation and through the investigations made by trade unionists. Indeed, it is on the basis of this “idea of work” that the dimension of the market was discarded in 1848 by the criticism of the “*marchandage*” as “labour sub-contracting,” distinguishing the specific form this “idea” took in France as a common good from the forms Biernacki (1995) highlights in the English case (where work remained linked to the market transaction) and the German (where work was related to the exploitation of “labour power” in a factory).

¹¹ Signed on 17 November 1936.

¹² “Article 41. From the date of signing the present contract and before issuing any new work, the employer shall individually notify all his entrepreneurs by registered letter with acknowledgment of receipt that all work accepted by the latter, from the receipt of this notice, will include a commitment from him to apply the rates specified in this contract to all their home workers.”

¹³ Signed on 17 September 1936.

¹⁴ That is, integrating the collective agreements.

¹⁵ “Isn’t the distinction between production and trade the basis of such a division? Isn’t *the very conception of “work”* in some way the result?” (Salais 1994, p. 376, emphasis added).

The “idea of work” that tends to support the development of labour law in the 1930s starts first of all from the “establishment” to which the “isolated” workers (working at home) will be attached, a unity of place and time leading to the conception of “labour conventions” on this basis. This develops according to the conceptions of the actors and the work they experiment in “conventions”, and through which, by coordinating with others in what they identify as a common situation, they arrive at a “common context of interpretation” (Salais, 1994). In the case of the Paris region, for example, labour law will become an important institutional resource in establishing this “splendor of the Paris region” (Storper and Salais, 1997), which crystallized around a creative dynamic close to the “world of immaterial production.” This was the case for both the Paris metallurgical industry, marked by a significant movement of innovation especially in aeronautics, and the garment industry in its relationship with fashion designers. Labour law has been the base for the renewing of coordination in the establishment, by overcoming the barrier between workers and engineers. It paves the way to innovative processes, by a coordination which is not simply hierarchical but implies also collaborations in the construction of prototypes which evokes the heterarchy as analyzed by Stark (2009).

But the case of the “Parisian splendor” also shows that this consistency can be threatened by the decomposition of the very conception of work, as suggested by the production of the Sentier neighborhood based on low-cost copies of the models of the great fashion designers, going as far as the use of clandestine sweatshops. This comes from the fact that labour law, as an institution, contributes to the clarification of the contours of “real worlds of production”, in so far as the actors themselves see in it the relevance to their own work situations. In this sense, such an institution is characterized less by a constructive dimension—somehow realizing the “conception of work” by its very existence—than by its “constitutive” dimension,¹⁶ i.e., as a fulcrum for strengthening the consistency of a common world which the actors, and in first place the workers, experiment—or not—in their work.

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¹⁶ Salais (2011, 223) suggests that we not neglect “the constitutive dimension of institutions, i.e., their justification based on fundamental principles.”

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