

France and the Struggle over Labour Reforms

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The so-called Labour Law, passed en force by the French government on 20 July, is the most serious attack against the “Code du Travail,” already undermined for the past thirty years. A short historical overview is necessary to better grasp the destructive scope of this law, promoted and enforced by a socialist government – cruel irony!

The Labour Code is a compilation of regulations giving structures to the relationship between employees and employers at the national level. It emerged after the shock of the [1906 catastrophe of Courrières](#), Northern France, where 1099 miners lost their lives.

The underlying idea was to adapt labour to people, and not people to labour. If the principle of 3×8 (8 hours of work, 8 hours of leisure and 8 hours of sleep) was acknowledged, it was not to please companies’ bosses but people themselves, so that they can live from and with their labour.

So when President [François Hollande](#) states that “we need to adapt labour law to companies’ needs,” this is a conceptual counter-revolution. Nothing is modern in this statement, and it has nothing to do with the crisis. He confessed it himself: “(the labour law) will not produce effects in terms of employments for a few months. It is more about setting up a new social model.” He made crystal clear that unemployment was a pretext, and that the objective was to break with the existing rationale of the labour code. The Labour Law should therefore be seen for what it really is: a neoliberal reconsideration of decades of struggles led by trade unions and the Left to protect workers. Even employers were surprised by the content of the Law, which goes much further than any right-wing previous attempts to change the labour code.

Equality or Balance of Power?

It is useful to stress (time and time again) that in a company, there is no such thing as equality between the two co-contracting parts: employers and employees. Labour laws are – and must remain – universal, whatever the company’s size, its specificity, its branch. They must prevail over contracts, agreements, derogations, exceptions – and not otherwise. This is guaranteed by the Universal Declaration of Human Rights and the Charter of Fundamental Rights of the European Union, as well as by several Conventions of the International Labour Organization.

During the four-month mobilization against the Law, trade unions reminded over and over again that the labour code is the historical expression of the social balance of power. One might even say that it is social public order and the rule of law within companies.

From article 1 of the preamble of the Labour Law, it is obvious that the aim is to change

everything. It therefore states that “liberties and fundamental rights of the people” can be subjected to limitations “if these are justified by the necessities of the company’s good management.” After imposing the state of emergency upon the public sphere, they want to impose it upon workers.

A few examples will illustrate the profound transformations entailed in the Law. It will alter the rules on working time by giving companies greater flexibility to exceed the legal cap on employee work hours. Currently, France’s statutory thirty-five-hour workweek permits overtime of up to ten hours a day and forty-eight hours a week for full-time workers. The government’s proposal would raise the daily legal maximum to twelve hours “in case of increased activity or for reasons related to the organization of the company.”

The Labour Law would also allow the labour ministry to temporarily increase the weekly limit to as much as sixty hours if “exceptional circumstances” require it. Meanwhile, the legislation would considerably reduce the bonus paid to employees who work more than thirty-five hours in a week.

Of equal significance are provisions in the law that would lower the cap on legal damages for “unfair dismissal.” In France, workers who lose their job without “just cause” are eligible to seek compensation through the labour courts. That means that if you are laid off because your company isn’t making money, your employer has to pay you a settlement commensurate with your length of employment. The Labour Law would lower the legal limit on damages, so that, for instance, a worker with twenty years of service could end up collecting just twelve months worth of salary.

The proposal would also change the rules on dismissals, making it easier for companies to lay off employees for economic reasons. French law requires that businesses that want to layoff employees without cause provide a valid justification – with the Labour Law a claim that it is economically necessary would be enough.

Perhaps most controversially, the proposal would permit firms to negotiate “offensive agreements” at the company level. These agreements will be allowed to undercut existing standards on pay rates, working hours, and other aspects of the employment contract. In the past, companies that wanted to negotiate these kinds of company agreements had to prove that they were necessary to prevent bankruptcy or avoid layoffs.

Now, companies that want to expand their operations or enter new markets could demand concessions from their workers, even if these givebacks would violate the terms of established collective bargaining agreements or existing labour laws. Furthermore, the law would make it easier for companies to negotiate agreements with employee representatives, as long as they were backed by 30 per cent of the workforce.

Business’s Assault on Employment Standards

All in all, these changes would be highly beneficial to employers.

From business’s perspective, French labour law is filled with “rigid” legal restrictions and costly regulatory requirements: from the statutes on dismissals and working time to the high minimum wage, business sees the labour code as an intolerable burden. The Labour Law would be a major step toward alleviating that burden.

Worst of all, the law would eviscerate the *code du travail*, by permitting employers to circumvent its statutory regulations through company-level agreements. For French labour organizations, this is the biggest problem with the proposal. As Philippe Martinez head of the CGT (France's leading labour federation) notes, "The main principle of our opposition to this law is that it allows each company to have its own labour code."

In this way, it would reverse the "hierarchy of norms" in the French labour market. Traditionally, employment regulations ran from the *code du travail* downward: labour law set the framework for the employment contract, which was further regulated by collective bargaining agreements negotiated at the sectoral level.

Now, that hierarchy would run in the opposite direction: company agreements, reached with workers who may or may not be represented by a union, would become the central terrain of collective negotiations. Decentralized bargaining would rule over legal regulation and sectoral negotiations. The bill would thus allow for a sustained assault on the employment standards established by the *code du travail*.

In general terms, the bill is not dissimilar to the various versions applied in other Southern European countries: it makes dismissal and mass redundancies easier, whether economically motivated or not, and it weakens collective agreements and employment law in favour of company agreements that damage working hours and in turn salaries. All this against a background of very high unemployment and where the expected growth is primarily due to the fall in the price of oil and in the euro. Other elements are being negotiated at the same time, such as unemployment insurance, for which the government is exploring degressive compensation once more. Again, this is no surprise as similar reforms exist elsewhere.

Trade Union Response?

Although joint responses were initially made, the trade union movement quickly found itself riven in two to form the new model that has been in place for a few years now. At least this initial response meant that the discussion among the unions of the complex issues of employment law were heard by employees and young people. The primary root of these divisions is because the more moderate segment of the trade union movement (said to be assisting the reforms) wants to be able to sign company agreements in a context where strong differences often prevent the majorities from forming groups.

It is worth noting that the movement was initiated by a handful of activists, far from trade unions' directions, through the launch of an online petition. The petition against the new labour law gathered over a million signatures within a few days. It has lent credibility to those unions which most strongly oppose the new law (CGT, the FSU, FO, Solidaires and others) and which, in turn, have had the sense to view the labour law as an issue that goes beyond the realms of the unions and employees. We have witnessed the creation of a global broad front including unions, internet activists, people on the fringes of the socialist party and community activists. This unusual starting point made it possible to mobilize very significant sectors of young people in particular: university and college students, but also young employees in precarious positions or unemployed young workers, employees of small companies, some of whom first demonstrated 10 years ago during the movement that led to the *contrat première embauche* (first employment contract), a bill for low-cost contracts for young people, being thrown out. All these young people, generally not affected by unions came to swell the ranks of the demonstrators at the beginning of March. They are also the

activists behind the *Nuit Debout* demonstrations, a combination of the ideas of intermittent artists, grassroots activists, non-professional journalists and the film "[Merci patron!](#)," a sort of celebration of class warfare.

The unions that oppose the labour law have maintained their united front in spite of government manoeuvres, mainly targeting opposition from college and university students. Substantial concessions to young people have been made, but the core of the labour law remains unchanged. Unions were faced with a majority of the public that did not want the labour law and, at the same time, difficulties to organize a mass mobilization of employees to strike and bring about the final blow for the legislation. The unions' bastions in the public sector were there, but their involvement was low as the reform does not affect them directly. A number of companies from the private sector joined the demonstrations, but that was not enough.

Rather than a central thread, woven by the inter-union space on its own, or a professional sector that could demonstrate the permanence of the movement by striking, the situation was one of constant resistance which can be seen in a number of movements.

The inter-union space united them by calling for inter-profession strikes and college and university student demonstration days were an additional tool. Some sectors are debating how better to combine their interests (the collective rail convention debate) and involvement in this movement by an extended strike, and the *Nuit Debout* demonstrations ensure the movement attracts attention in Paris and also in some suburbs and a number of towns in the region. These *Nuit Debout* demonstrations may address global issues that concern democracy and social change, but they were born from the movement opposing the labour law, making them a place for exchange, for encouragement and a place that unites struggles. These circumstances, when combined with the institutional problems facing a struggling minority government, leave open the possibility of a victory. They also mark the arrival of a new generation on the political and social scene, a promise of future engagement and new life for the trade union movement, if it can harness the power of this new generation and take into consideration its demands and the fact that it thinks and acts independently.

The inter-union coordination has called for another demonstration after the summer break, in September. Even if the government used the 49-3 article of the Constitution - providing it with right of bypassing any kind of parliamentary debate to enforce the Law in July - it is important for the unions to keep occupying public spaces - even if only punctually. It is too early to tell whether the movement will disappear. But one cannot deny that the trade union movement has suffered a serious blow. But regardless of the forthcoming demonstration - the first one after the Law was passed - trade unions have been reinvigorated. The relationship they established with new social movements such as *Nuit Debout* may produce fruits that yet have to be discovered - most notably in terms of better including demands of precarious workers, well represented on French squares. •

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