

STATE, WORLD ECONOMIC CRISIS AND THE CENTRALITY OF WORK

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ABSTRACT

THIS ARTICLE DISCUSSES THE CURRENT ECONOMIC CRISIS, TRYING ADDRESS ITS EFFECT ON THE WORLD OF WORK, BUT ALSO REDISCUSS THE RELATIONSHIP BETWEEN STATE, SOCIETY AND MARKET IN AN ATTEMPT TO CLARIFY LEGAL AND REGULATORY MODELS AND HOW POLICIES HISTORICALLY APPLIED IN THIS THREAD THAT RUNS THROUGH THE NECESSARY REDEFINITION OF THE BORDER BETWEEN THE PUBLIC AND PRIVATE, MAINLY FROM THE PERSPECTIVE OF THE NEW PERFORMANCE AND CRITICIZED STATE INJECTION OF PUBLIC FUNDS TO SAVE INDUSTRIES AND BUSINESSES IN FINANCIAL DIFFICULTIES, IN NOTABLE CONTRAST TO THE SPEECH OF THE LOW STATE. THUS, SEEKING TO PRESENT SOME CAUSES AND EFFECTS OF THE RELAXATION PRODUCTIVE, FOCUSING THE DEBATE ON THE CENTRALITY OF WORK IN MODERN SOCIETY.

KEYWORDS

ECONOMIC CRISIS; STATE; WORK; SOCIAL RIGHTS

INTRODUCTION

The current economic and financial crisis produced and has produced many serious social and political effects, echoing, so to speak, on the State role in economy, considering that the neoliberal policies of the past thirty years have created a dynamics of non-intervention in the social order.

The striking paradox of the minimal State (in social protection) and strong State (in the financial and credit market) became evident with the widespread nationalizations of investment banks, mortgage companies and insurance companies, undertaken by the US and EU governments, which has left citizens and taxpayers stunned, to say, outraged by the current style of state action.

The debate on the relationship between state, society and market was reintroduced in the current agenda of discussions, in view of the widespread perception that public trust in the latter was not as great as its propaganda, in fact, exhibited. On the other hand, the question of centrality of work in modern society, in core countries, and especially in peripheral countries of

the capitalist economy in times of financial crisis, is becoming increasingly clear, given that the work is the base of human survival.

Positive Law, before such a perspective, must rethink its models and interventionist practices, seeking a broader civilized consensus of social life, especially after the democratic strengthening of the public sphere, increasingly filled by participatory spaces focused on the society. This guarantees the prevalence of social rights hardly achieved, but also the protective mechanisms of employment and income generation, allowing for a more meaningful social protection.

This article addresses the consequences of the current global economic crisis in the world of work, seeking to discuss legal solutions to remedy it, promoting a renewed discussion of the boundary between public and private, reinterpreting the State's role in modern society in times of post-neoliberalism.

1 STATE AND ORGANIZATION OF WORK IN THE 2ND POST WAR

From the second post-war period, through consensus in the richest countries, aiming to stabilize the capitalist system, the Fordist system of production has matured, coupled with Keynesianism, which, in turn, aimed to develop a set of managerial strategies to support the State, then responsible for promoting and encouraging employment and income generation. This partnership led advanced capitalist countries to achieve strong rates of economic growth, which have led to the international expansion.

Particularly, we can see the significant participation of the State who had to assume new roles and build new institutional powers, ensuring the balance of power between employers and workers. The organized work of standardized products, a standard feature of the Fordist system of production, the big corporate capital and the nation-state walked hand in hand in a triple alliance that would form the power base of expansion of the second post-war period, always aiming to increase productivity and added value.

The state struggled to control the business cycles by setting up companies at strategic points of the production chains, combining monetary and fiscal policies (Keynesian policies) directed to the areas of public investment such as transport, communication and urban infrastructure, considered vital for the growth of large scale production and mass consumption.

The so-called welfare state represented an essential pillar not only in health, education and security, but also as to the public welfare, employment and income of the working class, assuming the role of key player in driving the economic development through regulatory interventions in trade, financial and industrial policies.

However, the universalizing goals of the welfare state began to clash with unregulated capitalism, booming in the 1980s, which ended early as in the second half of the 1990s in an "uneven and ambivalent relationship between protective universalism, growing forms of social particularism and increasing commodification of social policy" (PEREIRA, 2008, p. 192).

In terms of legal consequences of the neoliberal order, a more fragmented legal system emerged without a logical unit, programmatic coherence and, even less, conceptual rigor, therefore, unable

to resolve the emerging uncertainties of the new social system and to seek solutions for the legal problems arising from it (FARIA, 2008, p. 65).

The hegemonic neoliberal policy precluded the preservation of social policy within the framework of the conception of the social welfare State due to its fiscal crisis and excessive state intervention in the market, ignoring the real causes of the crisis, such as: retraction of the very capitalist system, with repeatedly slowdowns in the economic growth worldwide, causing a rapid increase in social benefits vis-à-vis the economic order, undermining the wage conditions, which became impossible to be kept in the same patterns of protection (CASTEL, 1998).

The neo-liberal discussion of “production restructuring”, then characterized by an intense process of “relaxation” of production and labor relations, began to emphasize the positive nature of the new production structures, as opposed to the rigidity of the Fordist production processes and their hierarchical subordination of workers. While acknowledging that the process was not the same for everyone, it was noted that the concepts of risk, instability and insecurity have been extended to the society, affecting even those who were supposedly at the center of society in positions, occupations and relationships thought to be safe, secure and stable (ROSANVALLON, 1984).

Accordingly, the exhaustion of the welfare state in countries that once had it, was related to the crisis of the Taylorist-Fordist production model, as well as to the globalization, resulting in a new phase of challenges and inevitable conflicts. That is because the new financial systems implemented since 1972 by the breakup of Bretton Woods (gold pricing and standardization based on U.S. dollars), began to change the balance of power in the global capitalism, “assigning much more autonomy to the banking and financial system compared to the corporate, state and personal financing” (HARVEY, 2007, p. 155).

Take into account that this welfare State, which allowed a certain social cohesion through full employment policies and benefits based on the Keynesianism, was the basis of social protections in Europe. Its decline corresponded to the limits of mechanical expression of social solidarity (ROSANVALLON, 1984), and has breathed new life, in the very end of the twentieth century, into the issue of poverty in the government political agenda, although a variety of interests involved made the problem increasingly complex.

Hence, faced with a precarious and unstable scenario in the world of employment, with a growing rate of non-registered jobs and loss of social rights, along with strong economic concentration, citizens and most of the workers experienced the shrinkage of state functions to protect employment in the context of crisis of the welfare state, only mitigated, lately, by some controversial and selective policies concerned with redistribution of income.

The current financial crisis thus represents the apex of the imbalance of forces in the capitalist system, especially given the heavy dependence of major world economies with respect to subprime lending and speculative securities, which have proved in the end, worthless, a fact that would soon trigger the onset or spread of the crisis on the real economy.

There is no doubt that given the deregulation of capital, the probability of occurrence of financial and monetary crises has become much larger than before, mainly because the flexible

accumulation has come to play a bigger and stronger coordinating role than Fordism. Hence, small scale production systems still proliferate, as well as the deregulation of social rights achieved after centuries of wars, subcontracting and outsourcing, initially intended to overcome the rigidity of the Fordist system, but in an evolutionary scale, representing the precariousness of labor relations as advocated by David Harvey.

The gradual withdrawal of support to the social welfare State and the attack on real wages and the organized trade union power, which began as an economic necessity of the crisis of 1973-1975, were simply transformed into a governmental virtue by neoconservatives. The image of strong governments administering strong doses of non-palatable drugs to restore the health of dying economies was spread. (HARVEY, 2007, p. 158)

That was how the neoliberal doctrine, as seen before, with its strong apparatus and hegemonic discourse, described by Pierre Bourdieu (1998), found ways to spread around the world, starting with the Pinochet's pilot experience in Chile in 1973, spreading through the "open veins of Latin America"; through Poland after the accession to power of Lech Wałęsa's Solidarity, after the Tiananmen massacre in China; with the chained democracy in South Africa (after the end of apartheid); and the "plunder" of the last major economic crisis in Asia, not to mention the tsunami in Sri Lanka.

Free, and consequently efficient markets; privatization and complete deregulation leaving the State out of the economy, given its corruption and inefficiency. In this vein, any restriction on the accumulation of wealth should be repudiated.

The "reconstruction" of the City of New Orleans (USA), after Hurricane Katrina, as well as Saddam Hussein's Iraq, represented, oddly enough, the most recent ways of implementing the so-called Washington Consensus, originally forged by the Chicago school of Milton Friedman, harnessing natural or "constructed" disasters to promote the rise of disaster capitalism, under the shock doctrine (KLEIN, 2008), in which fear and despair turned into opportunity to make money, always through the emptying or privatization of the public and cultural and social refilling through liberal free market-based ideas.

That is, as well exposed by Canadian Naomi Klein (2008), the Friedmansque economic policy, since the rise of Pinochet in Chile, has been connected to the huge number of people killed and tortured around the world, always looking for new markets.

The dirty secret of the neoliberal era was that these concepts were never defeated in a great battle of ideas, nor were defeated in elections. They were taken off the path with brutality, on decisive political situations. When resistance was fierce, they were defeated by open violence — coming from the tanks of Pinochet, Yeltsin and Deng Xiaoping. On other occasions, they were simply betrayed by what John Williamson called "the Voodoo politics": with the secret economic team, appointed by Bolivian President Víctor Paz Estenssoro (and the mass kidnapping of union leaders); with backroom negotiations with the ANC, who abandoned the Freedom Charter in favor of the secret economic program of Thabo Mbeki; with the succumbing of the exhausted supporters of Solidarity with the economic shock therapy, after the election, in exchange for financial aid. It is precisely because the dream of economic equality is so pop-

ular, and so difficult to defeat in a fair fight, that the shock doctrine was implemented in the first place. (Klein, 2008, p. 536)

Accordingly, there is no doubt that the reaction of the Bush administration to the September 11 attack precipitated the terminal crisis of the U.S. hegemony, leading the U.S. *belle époque* soon to the end (ARRIGHI, 2008, p. 171) even taking into account the relative lack of power in the world of multilateral organizations such as the UN.

2 PROTECTION RIGHTS AND CENTRALITY OF WORK

While certain aspects of “flexibility” may be considered to be beneficial for certain groups of workers, grasping the positive aspect of having a job, though precarious, the notion of precariousness informs the degradation of working conditions of the new flexible standard in that rights are not only flexible, but arranged according to the needs of the consumer market, setting up the so-called Toyotist model of production, in which workers have become multifaceted, diverse, working on a just-in-time logic, integrated in a team and working under total quality control.

Finally, a flexible production system and a flexible organization of work, which, according to Thomas Gounet (quoted in ANTUNES, 2007, p. 35), has eventually intensified the exploration of work, especially with the Westernization of the aforementioned Japanese model, which for being much more in tune with the neoliberal logic than with social democracy, has further weakened what could be preserved from the social welfare State, thereby shrinking public funds and dramatically “reducing the social gains valid for the population at large, including those who work and those who do not find a job”. (ANTUNES, *idem*, p. 40)

Regarding the representation of the union structure, it was found that at the time of Fordism, it was based on occupational categories based on the position of each worker in a vertical and hierarchical production structure. The dismantling of this system, through a restructuring process, was not accompanied by union-centered organizations. Furthermore, as Ramalho and Santana (2003, p. 26) put it, the unions would have to act now, pressed by mass unemployment, which eventually represented a powerful factor of union demobilization, though unions have tried to represent the interests of the unemployed, though weakened. That is because they are far removed from traditional class-based social movements of the 1960s and 1970s, which sought to gain, in effect, a greater social control of production and, accordingly, aimed at the emancipation of labor.

Substantial research studies conducted in the Metropolitan Region of Salvador (BA) in 2004/2006¹ have found that the mass outsourcing of labor eventually set up a significant objective fragmentation among workers (DRUCK; FRANCO, 2007, p. 103), in that it created a gap between workers in the stable core and outsourced workers, thus leading to a subjective and political fragmentation of the union movement, since outsourced workers have a lower status than non-outsourced workers.

Although this phenomenon is traditional in the industry, from its very inception, the practice of outsourcing has spread to various production sectors, also generating vulnerabilities in

health and safety, as it launches a “cloak of invisibility over the real world of labor, as well as over health problems related to work” (SILVA; FRANCO, 2007, p. 120).

Outsourcing facilitates high turnover in businesses, precluding collective organization and actions for equal rights at the workplace, to the extent that the companies use the instrument of dismissal either due to the expiration of the employment contract, or to neutralize militant workers. Thus, with respect to the first aspect, when a company dismisses workers due to the expiration of an employment contract, it introduces a smokescreen in the world of unions representing outsourced workers, as they find it extremely hard to estimate their base due to high turnovers in this category (...) (SILVA; FRANCO, 2007, p. 135).

In this sense, discussions emerge on the centrality of labor and its ability to explain the variety of new experiences at work, often outside the scope of production, which is why authors such as Robert Castel (1998, p. 531-532) recognize the difficulty of identity through work, although he considers it relevant for certain social groups.

We could, perhaps, summarize these recent changes by saying that for many categories increasingly present in the working population, and a fortiori to those who are placed in situations of forced unemployment, identity through work is lost. But the notion of identity through work is not easy to handle as part of an argument that would rather be rigorous. [...] In the industrial society, especially for popular classes, labor works as a “great integrator”, which, as states Yves Barel, does not imply fitness through work (CASTEL, 1998, p. 531 / 532).

There is no doubt that all the changes described in this study, as well as the current downturn, still depend on the obvious political and social conditions experienced by each country, and directly affect the working world, causing changes not only in the subjectivity of work, but also within the very universe of consciousness and forms of union representation vis-à-vis the clear evidence that the rise in unemployment among the labor force gives rise to serious social and political crises, destabilizing the State and the entire society, advocating more suitable legal solutions.

Looking back at the past 25 years, we finally find that the introduction of new business management methods have caused the progressive challenging of Labor Law, from the matters legislated on those negotiated, as well as a number of social achievements, given the growing shadow of layoffs and reshuffles, accompanied by a genuine brutality in labor relations, causing distress, crises and much suffering, witnessed by psychiatrists and social workers, in the words of Christophe Dejours (2006, p. 14/23).

3 END OF NEOLIBERALISM?

Neoliberalism, as an economic policy, consisted in an absolutely hegemonic model, in that it sought to extend down as universal as possible, despite the occasional attacks over its journey, especially during the 1990s, in Mexico, in Southern Asia, Russia and Brazil. However, in clear contradiction to this doctrine, the State, in critical situations and in emergencies, practices massive and/or highly inductive interventions in the economic order, seeking even to reverse processes of economic deregulation.

However, will it be possible to resume, in our times, a new global regulatory process? Are there any alternative or new models? Can it be argued that the neoliberal economic policy is ending?

Assuming that between “the crisis of the early aged model and the difficulties in building up a new one, a more or less long period of instability, a succession of crises and turmoil will follow”, sociologist Emir Sader (2008, p. 95) states that what is weakened is not only the hegemonic model that refuses to die, but also the political hegemony of the United States, emphasizing the role of Latin America and China in this new scenario.

As emphasized by Boaventura de Sousa Santos (2008), analyzing the current state of crisis in the credit market, assuming that this is not the final crisis of capitalism, the “unthinkable happened” and the State, before a problem, became the solution, or better, now, the national interest is not only asking for protection and regulation, but also for subsidized interest rates to support industries and financial institutions in distress.

Globalization, before the ferment of neoliberal economic policy, has become the main vehicle of contagion of the financial chaos promoted by a completely deregulated, volatile and speculative financial capitalism.

However, given the recent nationalization of companies by means of vast public funds, although this attitude is not openly reported by the media in general, one would reflect on the current phase of economic policy now implemented and its main features and models.

The post-neoliberal phase is not enough to represent a socialist regime, nor any new stage of capitalism, but a socio-political situation in which the social, environmental and economic hard-won rights will be at the center of political discourse, that is, attempting to equalize, since then, monetary stability with social justice, like the social democratic countries, which produced such a successful experience after the 1930s.

Before that, taking into account the particularity of the Brazilian reality, we will need to think about the current economic crisis by promoting an extension and strengthening of basic citizenship rights, strengthening the public sphere outlined after the 1988 Constitution, by encouraging forms of effective participatory deliberation, especially in public places already guaranteed to the society, i.e., seeking to enhance the interrelationship between public and private. This enhancement should not be merely legal-normative, since the problem is not solved in strictly legal terms, but geared to the real relations forged in modern society, in the words of Fábio Konder Comparato:

That is why our political life has always been a series of “unfortunate misunderstandings”, to use the famous expression coined by Sérgio Buarque de Holanda. We have, in less than two centuries of independent life, staged a liberalism of slave quarters, a privatized republic, a democracy without people and an ornamental constitutionalism. (COMPARATO, 2008, p. 12)

Ultimately, promoting a greater and distinguished market regulation, repelling speculative financialization of capital and, accordingly, reshaping social inclusion. Therefore, as Emir

Sader puts it (2004, p. 129), “to think the crisis of our societies from the State is a possible starting point, provided that we consider it as the tip of the iceberg of social and political relations”, rather than a simple formal apparatus opposed to society, or rebuilding the State in the image and likeness of democracy and citizenship, rather than the market.

Therefore, dualism becomes part of the essence of the political phenomenon, “with the dialectical opposition between ideas and concrete action, customs and state law, traditional values and the demands of institutional reform” (COMPARATO, 2008, p. 12), which is why there is the classic confrontation between the forces of preservation and change, the latter needed in the debate and reconstruction or strengthening of those rights already enshrined in the legal rules, though still ineffective.

FINAL INSIGHTS

Hence, from the perspective of a serious global crisis and before a setting in which goods, services and capital markets are globally integrated, as opposed to the political autonomy of national governments, what can we expect from the positive legal system? As José Eduardo Faria puts it:

Traditional concepts such as “common good”, “general and universal interests” and “social purpose” of the laws can no longer play the role of “totalizing principles” designed to coordinate, integrate and harmonize specific interests in pluralistic but socially divided communities. Because of their strong potential for communication and persuasion, these concepts can still be symbolically and rhetorically preserved in legal texts, surviving the striking processes of deregulation, flexibilization, delegalization and deconstitutionalization currently in progress. (FARIA, 2008, p. 67)

Insofar as the state institution starts to represent that solution unexpectedly, new social alliances should be forged and strengthened to reorient government policies of generation and protection of employment and income, providing not only equal opportunities but also equal conditions, especially before the anachronism of the current forms of control and management of the nation state, which eventually leads to the loss of centrality and exclusivity of the state legal system (Faria, 2008, p. 66), for the true democratic state should aim to the socialization of politics and power.

From a labor standpoint, outsourcing (or cascading subcontracting) led to the disintegration of the unions, to the extent that this employment procedure allowed an undeniable accumulation and economic concentration, precluding the collective organization, as well as claims for equal rights at the workplace, which, then, is one of the main factors triggering the crisis in the society of labor, getting worse with each cyclical crisis of the capitalist order. Furthermore, the restructuring process seen in production broke the workers’ unity framework.

While recognizing the importance of certain anticyclical measures and expansionary fiscal policies in order to seek to reverse the economic downturn, providing social protection vis-à-vis any threat of unemployment appears to be a healthy measure, especially in the peripheral

countries of the capitalist system, in the relentless pursuit of decreasing the rate of unregistered labor relations.

In this sense, the social alliances transform facts into rules, competing with the State for the monopoly of rulemaking, which means that solutions must be sought not only beyond the paradigm of industrial society, but also away from the traditional relationship between market and State, taking into account that the experience of the bylaws of the welfare state, for instance, was accepted because of the historical struggle between the capitalist system and the Soviet communism, of which the Cold War also represented its other most visible face.

As for the legal-regulatory process, it appears that its center of development should neither be exhausted in law nor in the precedents nor in the opinion of jurists', much less before a limited system of rules or official legislative process and should be legitimized by the very beneficiaries of the legal rules, strongly underpinned by democracy. From this perspective, we must establish in the foreground who indeed has political sovereignty, which directs the discussion to the effective means of popular participation in relevant matters to the public policy, such as actions in the area of economic, social and cultural rights, and privatization of state-controlled companies.

Then, here is the current state challenge: working beyond a mere economic interventionism, honestly facing the neoliberal ideology, avoiding mass unemployment, but not at the expenses of late injection of public funds. Finally, producing a fairer, ethical, human, democratic and prosperous society.

On the other hand, as Christophe Dejours puts it, "there is no short term solution to social adversity generated by economic liberalism in the current stage of our historical development" (DEJOURS, 2006, p. 22), which makes us reflect, now under the auspices of the current economic crisis, on our collective passivity, then turned to the enormous lack of new social, economic and political perspectives, which inexorably also leads us to discuss the current political position of the left wing in Brazil and abroad.

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NOTES

- 1 "Terceirização: uma década de mudanças", prepared by CRH/FFCH/UFBA.

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