

relationships. The ‘mob’ whose stories Quinlan documents understood this in a way that our governments and policy-makers and scholars do not.

This is a book which should be read by all of us who are students of, and activists in, capital–labour relations. We will profit in the best way: we will be enriched intellectually and, perhaps, inspired to do better.

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Ruth Dukes and Wolfgang Streeck, *Democracy at Work: Contract, Status and Post-Industrial Justice*. Cambridge, UK, Hoboken, USA: Polity Press, 2023, pp. 180, ISBN: 978-1-509-54899-6, AUD \$32.95 (paperback).

A spectre is once again loitering in the imagination of capital (if not yet haunting it) – industrial democracy. Ever since its inception in the work of Proudhon and the Webbs, the concept of industrial democracy has seemed to go through something of a rinse-and-repeat cycle: for a time it gains purchase in the mainstream political discourse and animates working-class ideology and practice, then recedes in the face of some type of political-economic shift, lies in quiescence for a decade or two, before re-emerging and kicking off the process anew. After the last flowering of industrial democracy withered on the vine of the neoliberalism of the 1980s and 1990s, there is a promising sign of new life in the 2020s. Ruth Dukes and Wolfgang Streeck’s *Democracy at Work: Contract, Status and Post-Industrial Justice* is a welcome contribution to this new wave of thinking about industrial democracy, one that will hopefully help us reverse the historical trend and meaningfully implement industrial democratic principles into our political economy.

Dukes and Streeck begin with an observation that has typified the common sense of labour law/industrial relations scholarship of the past several decades: that labour law is ‘no longer fit for its original and defining purpose of protecting workers from unfair and unequal treatment at the hands of employers, ensuring decent work and a decent standard of living’ (Dukes and Streeck 2023, 1). In order to plot a future where labour law may once again resume this protective function, they foreground the necessity of investigating the evolution of industrial relations and its legal regulation over the last century, particularly from the end of World War II and the rise and fall of the Fordist–Keynesian compact that emerged in its aftermath. To trace this history, Dukes and Streeck arm us with a suite of concepts, including *contract* and *status*. Exploring the distinction between them, they argue that:

‘[t]he concepts *contracts* and *status* have long been used to signify different types of social relation, with ‘contract’ referring to voluntary agreement and the free stipulation of terms by the parties to the relationship themselves, and ‘status’ referring to the right and obligations, privileges and duties, capacities and incapacities accruing to the parties by reason of their belonging to a particular social or legal category . . .’ (Dukes and Streeck 2023, 6).

Against a teleological account, prevalent in the nineteenth century, that status-based relations (understood as feudal relations at that time) would give way before contractually grounded ones, Dukes and Streeck offer a nuanced, dialectical understanding of contract and status as inherently intertwined and, indeed, co-constitutive. A free contract, they argue, cannot form without at least some status-based categories framing the relationship,

and even the most rigorous status-based systems presuppose forms of agreement that rely upon some residue of agreement/consent between the parties to the wage-labour bargain. To capture the dialectical interplay of these two key concepts, together with their grounding in political-economic relations, they employ the fascinating concept of a *labour constitution* (developed with reference to the work of Max Weber and Weimar jurist Hugo Sinzheimer), ‘the historically given ensemble of rules, institutions, social statuses, economic and technological conditions which together affect who gets what work under which terms and conditions’ (Dukes and Streeck 2023, 15). To me, this concept serves as the guiding thread of the book and the touchstone of the historical account it gives.

Chapter 2 begins by posing the question of the exact role labour law can play in civilising the intrinsically conflictual relationship between employers and workers in a capitalist society. As a first step to illuminating this issue, the chapter compares and contrasts the work of American sociologist Philip Selznick with that of Hugo Sinzheimer. Writing in the 1960s and 1970s, Selznick identified an immanent movement towards legality within the corporations of his day, akin to Weber’s understanding of the shift towards formal-rational authority in a capitalist society. Within this growing moral community, Selznick explored the relationship between the “incipient law” of such organisations and the formal legal order, noting how the former acted as a dynamic, living force of legal change. Whatever the sophistication of this particular understanding, Dukes and Streeck correctly highlight its intrinsic functionalism and detail how its relatively optimistic prognostications on the moral evolution of business perished in the neoliberal revolution. Sinzheimer, whose work otherwise has interesting parallels with Selznick’s, was more aware of the structural contradictions besetting the relationship between labour and capital and argued for a thoroughgoing redistribution of power within society (within, it must be noted, the reformist parameters of the Social Democratic Party of Germany (SPD)). Part of this included the construction of a labour constitution that made provision for collective bargaining, works councils and corporatist economic management; in short, a labour constitution structured by a form of industrial democracy. That this did not survive the rise of Nazism (a point I shall return to below) spoke to a realisation that echoes to today: ‘an emancipatory and *democratic labour constitution* must in one way or another come hand in hand with an *economic constitution* that places limits on free markets and competition’ (Dukes and Streeck 2023, 46).

Chapter 3 provides a lengthy, though more-or-less well-known, account of the evolution of work relations and their legal regulation from the Fordist period, through neoliberalism, to today. The mechanics of these processes will be familiar to labour law, industrial relations and political economy scholars alike, but the chapter nevertheless plays a novel role in operationalising Dukes and Streeck’s notions of contract, status and their coherence as part of a labour constitution. Whereas the Fordist period was characterised by a labour constitution that could broadly be described as one of industrial citizenship, whereby the freedom of contract was subordinated to status-based rights and obligations often rooted in trade union organisation, the neoliberal equivalent sees status grounded in property: that is, status is an effect of contract, rather than its necessary integument. This has led to the “fissuring” of work relations as the classic employment relationship is fragmented into a multitude of different forms, including various types of independent and dependent contractors, gig workers and the like. The chapter concludes by assessing the strengths and limitations of early attempts to grapple with the new neoliberal reality through labour market segmentation theory, before engaging in an important reminder about the nature of the politics defining this new reality (a point I shall take up below).

Chapter 4 explores some of the broad political-economic trends from the 1980s onwards, focusing in particular on how forces like globalisation, deindustrialisation and a radical intensification of the technologies of, and in, the labour process have created a

climate ripe for the aforementioned fissuring of the employment relationship. Dukes and Streeck then further elucidate this process of fissuring, and the evolution in the relationship between status and contract which it presupposes, through four case studies focusing on gig workers, Amazon warehouse workers, care workers and university professors. Although I was broadly familiar with the tale these case studies told, I was nevertheless struck by their incisiveness and power; it is hard not to be moved by Dukes and Streeck's depiction of the labour process of an Amazon warehouse worker, who is truly toiling within a techno-redux of Blake's 'dark Satanic mill'.

The concluding chapter poses the essential question – what are the material premises of post-industrial justice, grounded in industrial democracy, and what might it look like? In asking this question, Dukes and Streeck importantly acknowledge that the industrial citizenship of the Fordist period was only ever imperfectly achieved and was moreover premised on the exclusion of certain groups from its benefits, e.g. women. A reinvigorated industrial citizenship for the post-neoliberal world thus cannot simply attempt a rerun of the post-World War II model, an attempt that would be neither feasible nor desirable. Indeed, Dukes and Streeck maintain that, whatever the manifold abuses and obfuscations of the various working relationships not captured by the classic employment model, there is at least some evidence to suggest that some workers do value the freedom these alternate forms seemingly offer. To reconstruct a more just, egalitarian labour constitution on the basis of this heterogeneous structure, Dukes and Streeck take as the pivot point *occupational communities*, 'a collectivity of workers sharing a common position in work and employment that gives rise to shared social norms and relations of solidarity' (Dukes and Streeck 2023, 111). Based on social as well as direct work relations, occupational communities can serve as a wellspring of solidarity and can, if sufficiently empowered, be key constituents of new labour constitutions revolving around industrial citizenship and industrial democracy. As a practical political point, supportive legal steps on this front might include the institutionalisation of much broader understandings of freedom of association, the creation of broad and enforceable worker rights to private communication with other workers, stronger job protections and above all more robust guarantees of collective action and collective bargaining. Far from stifling conflict, such steps must acknowledge the inherently conflictual nature of capitalist class relations and allow the space for such conflict to take place. The promise of such a programme is a reinvigoration of labour law in its protective function, an enhanced ability for it to translate incipient law into formal law, and above all a thoroughgoing democratisation of workplaces.

This book is a significant text with many admirable qualities. In the space of a short review, I cannot recount all of the many strengths of the text. However, there were several that particularly stood out. First, in an era where dense, abstruse expression often masquerades as sophistication, the book's clarity and concision are a breath of fresh air. It makes for a highly readable, lucid account that interests at the same time that it informs. Second, in explicating their vision of what a contemporary industrial democracy and industrial citizenship might entail, Dukes and Streeck very wisely refuse to hitch their wagon to the horse of capitalist efficiency. It is tempting to play the capitalist game and remain within its logic by arguing that industrial democracy is worthwhile because, for example, it increases productivity (and so benefits capital). However, they acknowledge that to do so essentially makes the project a hostage to fortune, and instead argue that industrial democracy is best founded on a normative ethical basis, one which recognises that industrial democracy may, at times, come at the cost of efficiency and profitability. Given that neoliberal ideology is extremely effective in structuring working-class experience, even regarding the forms in which the latter resists the depredations of capital (Poulantzas 1978), this call, which informed the entire analysis, is as necessary as it is welcome.

Dukes and Streeck were also masterful in the way they traced the dialectical relationship between status and contract through time. They revealed the inadequacies of

overly dualistic accounts that see contract and status as more-or-less mutually exclusive structures. Such accounts undergird a shallow historical comparison between a supposedly status-based Fordist labour constitution and a radically contractual neoliberal order. In reality, the former saw union strength manifests itself in robust collective bargaining outside the aegis of the formal legal system, whilst the latter continues to provide for status-based categories (even if these are largely individualist in nature). This sensitivity to the dialectical interplay of status and contract is linked to a further strength of their account, which revolves around their placement of the state at the centre of the analysis. Labour constitutions, which include particular configurations of the status–contract relationship, are intrinsically political, being constituted and reproduced (at least in part) by the state. This understanding allows them to explode the myth of neoliberal ideology that neoliberalism equates to “less” of the state: ‘there is exactly as much politics in neoliberalism as there was in social democracy or state-administered capitalism, albeit of a different kind’ (Dukes and Streeck 2023, 64). If the state is truly this central, then it allows us to regard with appropriate disdain neoliberal claims that the state is powerless to act in the direction of employment security, collective rights and industrial democracy more broadly. On this basis, Dukes and Streeck are able to make a series of concrete, practical demands of the state, demands that would surely command the support of most elements of the working-class movement.

Ironically, however, I would argue that it is this same treatment of the state that represents the biggest conceptual shortcoming of the book. In their critique of Selznick, Dukes and Streeck correctly point out the theoretical poverty of the dominant structural-functional tradition in which he worked, particularly its positing of the capitalist economy as a discrete, self-contained “sub-system” of the broader society. However, a similar balkanisation of economics and politics lurks in the text, largely through the repeated invocation of Polanyi. Polanyi was completely correct in his observations of the corrosive effect of market relations on society, but his account of society “protecting itself” through a counter-movement both homogenises the non-economic realms of social life and assumes that those realms are not also deeply structured by capital. Although the state and law are central to Dukes and Streeck’s account, they are never closely theorised as the capitalist *types* of state and law. Capitalism is more than simply an economic system; rather, the capitalist mode of production is a structured totality of economic, political and ideological relations, all of which are essential for the reproduction of capitalist society (Poulantzas 1978). The state and law are not neutral structures that are hijacked by class actors; rather, the class relations of capitalism are deeply inscribed in their very materiality. The limitations of the former view arise in the book at various points, including notably a very benign view of labour law as having a largely protective function, which runs counter to a tradition in political-economic scholarship that sees it as also formalising and extinguishing working-class struggle (see, for example, Kay and Mott 1982; Neocleous 1999). Perhaps the most striking demonstration of the balkanised view of economics, state and the law is in the account given of the eventual failure of the Weimar constitution Sinzheimer had so richly contributed to:

‘In Germany, the ambition to democratize the economy, enshrined in the labour constitution of 1918/19, was gradually hollowed out or perverted during the course of the 1920s and early 1930s and overturned, once and for all, in 1933, in favour of ‘authoritarian liberalism’. The victory of the Nazis deprived German Social Democracy of the opportunity to demonstrate that capitalism *can* be democratically transformed to accommodate a labour regime . . . that limits the power of capital and makes capitalist profitability conditional on industrial justice’ (Dukes and Streeck 2023, 44).

This is of course historically true, but it seems to miss the essential point – the Nazis *did* come to power, precisely because the primary task of the capitalist type of state is to safeguard the extraction of surplus value from workers. Indeed, there is an argument that the roots of the fascist state can be traced precisely to the failure of the SDP to overthrow the capitalist type of state when the opportunity presented itself in the immediate aftermath of World War I. I do not mean to suggest that any attempt to grow a new industrial democracy and industrial citizenship short of revolution is doomed to failure. Indeed, it may well be that the concrete proposals put forward by Dukes and Streeck are necessary in order to create the space within which a deeper challenge to the economic, political and ideological rule of capital can be nurtured. However, such attempts must be made with the tools of state theory in hand, allowing us to better understand how to pressure the state and the legal system in the current material context. In the same way that Dukes and Streeck explode the myth of neoliberal ideology regarding the capacity of the state, I would also explode any simplistic notion that labour law is intrinsically protective and that all options are open to the state *in its capitalist form*. In my own research on industrial democracy, in collaboration with my colleagues Dr Michael Rawling and Dr Eugene Schofield-Georgeson, I seek to deepen Dukes and Streeck’s account precisely through such an understanding.

This conceptual issue notwithstanding, *Democracy at Work: Contract, Status and Post-Industrial Justice* is a timely and inspiring work that deserves to become a standard text in contemporary industrial democracy/labour law scholarship. Dukes and Streeck leverage a nuanced, sophisticated historical account of the rise and fall of industrial citizenship to provide a valuable sketch of what an egalitarian and just labour constitution might look like in the current conjuncture. If we wish to capitalise on this moment when industrial democracy has once again raised its head above the waves, we would do well to heed their call.

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In Western Europe, North America, and Australasia, the decade or so from 1970 witnessed the most significant overhaul of occupational health and safety (OHS) legislation in at least 50 years. The complex web of prior laws was merged into a single overarching act, although extractive industries remained separate in some jurisdictions. There was a general shift to adopting performance standards (general duty provisions) and process standards (including requiring risk assessment), albeit less so in the USA. Correspondingly, there was less emphasis on prescriptive standards (that specified requirements in detail, such as the provision of machine-guarding except in high hazard industries like mining and construction. Another particularly critical change in Western Europe and Australia