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Construction of Cultural Labour Market

The issue in the conflict of the *intermittents du spectacle* is the restructuring of the modalities of indemnification of their unemployment insurance. This conflict in France highlights the problems in a labour market which is flexible and precarized like that of cultural labour, where the individuals move from one job to another, changing employers each time, the indemnification of unemployment is not simply an insurance against the risk of losing your job, but also becomes the main instrument of regulating and controlling the mobility of the work force.

The movement of intermittents du spectacle refers to actors, stage directors, decorators, dancers, choreographers, clowns, jugglers, sound and lighting technicians, costumer makers, film directors and editors, gaffers, cameramen and women, location managers, animation designers and innumerable other professions: the people whose job is to create imaginary worlds. Since 1969, all these intermittents du spectacle had gained the right to a specific form of unemployment insurance which recognized the inherent discontinuity of artistic practice, and provided a supplemental income to cover the periods when paid labor gives a way volunteer productions, rehearsals, training period, the quest for inspiration or, more prosaically, the search for another job. But in 2003, the agreement governing this form of unemployment insurance was modified by the French employers' organization Medef and three minority labor unions, with a change in eligibility requirements that was predicted to eliminate roughly 30% of the beneficiaries.(1)

The construction of the cultural market means transforming the artists and technicians from the "workers"

into "human capital", which is a part of a wider neo-liberal program. The flexible and precarious work force of the intermittents resembles less the "multiplicity that is few in number" that can be cross-ruled in a "closed space" (factory, school, hospital etc.) by disciplinary techniques (silent organization of movements and actions of the body in cellular space) than the "multiplicity in movement" that has to be controlled in an open space. The intermittents du spectacle form a floating "population" that cannot be controlled directly by the disciplines of the workplace. Under these conditions this population cannot be governed in the closed space of "disciplinary institutions", but only in an open space, by means of the "mobility" and flexibility of what Michel Foucault calls societies of security.

Competition as an Organizing Principle of the Cultural Market

The neo-liberalists' conception of the market and the law of supply and demand are not natural and automatic mechanisms, but a construction that requires a multiplicity of interventions, especially by the state, in order to exist and function. To be able to "laissez faire", you need to intervene a lot and intervene at the same time both in the economic and in the not directly economic conditions of the way the market functions. And this means primarily state intervention. In all western capitalist countries it is the state which sets the laws and norms that make possible the neo-liberal construction of the market as a system that calls itself "auto-regulated".

The interventionist policies of the state, highly emphasized by Foucault in his analysis of liberalism in post-war

Germany, have even been amplified by American neo-liberals. Neo-liberalism is not a struggle of the enterprise and private interests against public governance, but a change in the mode of governing behaviour that implicates different dispositives of power, among which the legal/juridical dispositive and the state administration are highly significant.

Contrary to classical liberalism, the neo-liberalists emphatically stress that the organizing principle of the market is not exchange, but competition. Exchange refers to equality, competition to inequality. The new mode of governing the market substitutes the pair exchange and equality with the pair inequality and enterprise. In the neo-liberal conception competition is a "formal game" between inequalities that has to be established and constantly cultivated and maintained. Only inequality has the capacity to create a dynamics that stimulates the desires, instincts and brains of individuals and incites them to compete with each other.

In this specific case that we are analysing, the cultural market has to be constructed and imposed by mobilizing the multiplicity of dispositives and the heterogeneity of subjectivities that we have evoked in this breakdown, according to the logic of competition. In the cultural labour market competition already widely exists, but according to the logic of the "reformers" (French employers' organisation Medef and labour union CFDT) the system of indemnification of unemployment of the intermittents du spectacle would cause strong distortions to the competition, because its effects would lead to a (relative) redistribution of income. The unemployment benefits would redistribute the incomes of those who earned and worked a lot to those who worked and earned less.

A system that, according to liberal logic, flattens the inequalities, fixes the "irrationalities" and regulates the excesses of the market is an anti-competitive system. A system that "mutualises the risks" perverts competition because it brings in "social justice", i.e. a non-economic logic which interferes with the functioning of the market that alone is capable of allocating the resources rationally and efficiently.

The mechanisms of unemployment insurance should not compensate the injustices caused by the system; it is not supposed to reduce the inequalities, but on the contrary, it is supposed to keep everyone in a position of differential inequality with all others. Those who govern a market which is based on competition and enterprise have to ensure that everyone remains in a state of "equal inequality", as Foucault formulated. The conditions of competition in the cultural market of the *intermittents* are created by an active governmentality that is to be analysed here.

Disciplinary Techniques, Techniques of Security

The "reform" of unemployment insurance is simultaneously put into action both by the oldest disciplinary techniques and by the most modern techniques of security. At the same time, the activation of these disciplinary and security techniques require an inflation of juridical and legal acts, and an increase in the production of norms and regulations along with an intervention using discursive techniques of the techniques of the mind. On the other hand the reform aims to reduce the "excess" of the *intermittents* who possess the

right to unemployment insurance. There are too many *intermittents*, too many companies, too many shows, too many artists, as the Culture Minister Aillagon declared.

When Gautier de Sauvagnac, representative of the Medef in the Unedic, declared in 2005, after having built the whole publicity campaign of the "reform" in 2003 on the budget deficit created by a lavish compensation of unemployment, that the problem in the unemployment insurance of the intermittents is not really a problem of deficit, but concerns rather the number of the compensated individuals, he revealed that the problem is less about economics than about political control. The mode of indemnification of the intermittents does not permit the regulation of who can enter and who can leave the system, or the control of forms of conduct according to the logic of "free competition" and capitalization, and it allows too much room and freedom to strategies that may resist, as we will see, the logic of the enterprise and "human capital". The problem of the *intermittents* is primarily a problem of governing the practices in the new circumstances of flexible production.

In order to reduce the number of the intermittents, the reform is, first of all, straitening the conditions that must be met to receive unemployment insurance. Urged on by the Culture Minister, the reform also seeks to successively include other techniques of selection: "the division between the ungifted or the incapable" and the "gifted or the capable", which is an old disciplinary technique used to classify the "poor", but also to create a division between artistic and non-artistic professions. The reform is working to create a rupture between those artists and technicians who are becoming the "human capital" necessary to the cultural industries, and those who are destined to fall into precarity, poverty and a struggle for survival.

This reduction in the number of *intermittents* can be compared to an "exclusion", but in this case the excluded are included in a "population" (the totality of the labour market) upon which the governmental action exerts itself in the form of differential management of inequalities. The disciplinary technique of exclusion is included in the way of a security technique managing the disparities functions.

This action of securitary governance holds a position in a continuum

that stretches from the unemployed, the working poor, the precarious, the intermittent, the temporary and part-time workers etc. to workers with a permanent working contract who benefit from unemployment funds and "public share-holding". This continuum is ruled by a jungle of laws, norms and regulations that set up a multiplicity of different kinds of working contracts, modes of insertion, requalification, formation, indemnification, and access to (social) rights to minimum social benefits.

We must note that this continuum is "social" and not exclusively connected to wage-labour, as the project of "social" refoundation maintains, because it includes the "vagrants", the poor etc. The continuum is an ensemble of discontinuities, thresholds, divisions and segments that are allowed by the technologies of security to be governed as a whole, as a whole population. The task of the government is then, on the one hand, to keep an eye on the "differences" between statuses, incomes, levels of education, social guaranties etc. and to make the inequalities play efficiently against each other.

On the other hand, its task is to amplify the politics of individualization inside each segment, each situation, in order to incite competition: individualization of wages and careers, individualization of surveillance of the unemployed, individualization of forms of governing the poor etc. In this continuum, none of the positions of relative inequality can be stable and secure. The amplification and deepening of individualization, is not only to weaken the individual that is in this situation, but also, naturally in a very differentiated way, all the positions in the labour market. The labour policies and the policies of workfare insert insecurity, instability and economic uncertainty into the lives of the individuals. Not only do they bring insecurity into the lives of the individuals, but also into the relations of the individuals to all the institutions that have been protecting them until now.

Capitalization

For the liberals, constructing the market means on the one hand, inciting, urging, promoting competition and differential inequality, but on the other it also means inciting, urging, generalizing the logic of the enterprise and its model of subjection: the entrepreneur. The injunction of this new normative

framework, the imperative rule that it declares for everyone is that of becoming an "entrepreneur of oneself", because the individual becomes "highly governable" only under this condition. The liberal individual, whom the social and insurance policies need to constitute, is highly governable because he primarily governs himself by himself, to the extent in which he considers himself as an entrepreneur and runs his life as he would run an enterprise.

For the differential governance of the inequalities to be possible, it is necessary that the system of unemployment insurance works at the same time as a system of capitalization and of individual insurance. The assessments which the entrepreneurs and the workers are paying do not have the form of socialization or mutualisation of risks, but of an individual investment against the risks. They thus represent an invested capital that has to be remunerated just as it is.

In the "reform" the new period of indemnification of the intermittents is considered as "a capital" of indemnified days that the individual has to manage as "capital". The unemployment benefit is a part of the multiplicity of "investments" (in education, mobility, affectivity etc.) which the "human capital" has to make to optimize its performances. Therefore the amount of the benefit must not produce effects of redistribution of income from one part of the population of the intermittents to another, but must be proportional to the investment the individual has made: those who amass the most, because they work and earn the most, also have to be the best indemnified.

What is going on is a complete inversion of the logic of the welfare state, which had – despite its adoption of the logic of insurance – integrated the mutualist and working-class origin of covering the risks and still had an ideal of social justice in view.

Capitalization is a technique that was supposed to contribute to transforming the worker into a fragment of capital ("human capital") that has to insure its own valorisation by managing all its relations, its choices, its behaviours according to a logic of the costs/investment ratio and according to the law of supply and demand. What individuals are called upon to do, is not to assure the productivity of work but the profitability of a capital (of their own capital, a capital that is inseparable from their own person). The individual

has to consider himself as a fragment of capital, as a molecular fraction of the capital. The Marxist definition of variable capital applies perfectly to this situation, but assumes a completely different significance.

The worker is not only a simple factor of production, the individual is not, strictly speaking, a "work force" but a "capital-competence", a "machine-competence". Every income, whether it is waged or not, has to be considered as an investment which results in capitalization, and every individual has to be considered as an "investor", in the way that "his conditions of life are the returns of a capital", of his "human capital".

The model of individual insurance must replace the model of mutualisation of risks everywhere: it is not about organizing an income transfer from one part of society to another to compensate the inequalities caused by the market, but about making the mechanisms of capitalization and individual insurance function in every field of life (health, retirement, education etc.).

For this reason the proposition of a new model of indemnification that has been promoted by the co-ordinations is unacceptable to the managers of the Unedic, even if it costs less, indemnifies more people and does so in a more reasonable way than the reform. It is quite clear today that the reform is more expensive than the old system of indemnification, that it causes inequalities that are even more blatant than now, and that it works even more clearly than before as a way of regulating the work force in favour of the enterprises, that it increases the "violations" of the employers. The reform has permitted employers to reduce salaries since 2003, when at the same time the unemployment benefits to the categories who work directly for the cultural industry (cinema and television) have increased. We know that other propositions of indemnification are less expensive and more just.

But this is evidently not the problem. The new model of indemnification proposed by the coordination is unacceptable for a very simple reason: it is a redistributive system of indemnification and it is even more redistributive than the old model, because by setting a ceiling and a floor (a lower limit and a higher limit) to the benefits, it increases the capacity to transfer incomes from one part of the insured population to another. And for the neo-liberal theory it is exactly the distribution and the transfers of income from one part of the insured population to another to correct the inequalities and the excesses of the competition, that transforms the individuals into "receivers of help" and into "passive consumers" of benefits.

Conversely, differences in income, status, levels of education purportedly have the power to transform the passive behaviour of the consumer of benefits into the active behaviour of an entrepreneur, an individual engaged in the production of "his own capital", and this same individual is turned into a producer, an entrepreneur, someone who accepts the competitive game with the others and occupies himself with optimizing his "investments" (in this case his investments in an insurance against the risk of losing his job). It is this function of inciting individuals to be an "entrepreneur" and an "entrepreneur of oneself" that the social policy of redistribution neutralizes.

The Defence of the Waged Workers

The case of Jean Pierre Menger is very interesting because it shows how an old trade union logic of defending the standard waged worker (full-time waged work) is completely subordinated to the neo-liberal logic of the differential management of inequalities and to the governmental techniques which aim to optimize differences.

The "grand story" of work (or of full-time work) is interpreted, talked about, represented according to two discursive logics that are not contradictory, but heterogeneous: the defence of the waged workers with a permanent contract and the defence of the entrepreneur and of the enterprise. These two discourses are far from being contradictory, because they both contribute, with their own characteristics, to the reconstruction, the enlargement and the consolidation of the terms of the capitalist relationship (between capital and work). The work of Menger demonstrates very well the complicity, the imbrication, the complementarity and the convergence of this double discourse.

The latest book by this scholar is completely based on the "disciplinary" opposition between regular and irregular, as its title clearly indicates: *Les intermittents du spectacle: sociologie d'une exception* (2005). For Menger, "it is not

about ordinary unemployment, just like it is not about ordinary work (...). The regulation of the unemployment of the *intermittents* means the untypical coverage of an untypical risk. But flexibility without rules has dangerous consequences."

Extraordinary unemployment and work, risk and covering untypical risks, flexibility "without rules". It's all about the full disciplinary "exception". Menger wraps his arguments about the cultural sector and the system of intermittence in a scholarly formalization which aims to confine the questions that the movement of the intermittents has raised to the disquieting framework of the irregular, the exception, the untypical. The policies of employment to be put into effect should eradicate the exceptional and re-establish the standard functioning of the labour market, which provides the reimposition, the reconstruction of the function of the entrepreneur (his autonomy) and of the function of the waged worker (his subordination) all at once, in the way that it is capable of assigning rights and responsibilities to everyone.

In the Durkheimien terms of the scholar, a "direct and organized hierarchy" has to be restored to a labour market that is deregulated because of acts which do not conform to the normality of the relation of capital and labour. We know that these functions do not have a natural existence, but instead they have to be produced and reproduced by a continuous intervention on the part of the employment policies. This is what the reform is occupied in doing.

If Menger's analysis of intermittence seems to be the opposite of that of the neo-liberals, its conclusions are perfectly similar. Given that "the number of individuals who enter the sphere of intermittent work increases a lot faster than the amount of work they are sharing", the market of cultural labour is characterized by a hyperflexibility that causes increasing competition among the intermittents. The increase in competition among workers has disastrous consequences for their conditions of employment (always shorter and more fragmented contracts) for their remuneration (wages decreasing), and for their power to negotiate with the enterprises.

This "declaration", that there are too many *intermittents* for them all to

be guaranteed good conditions of employment and indemnification, imposes the same solution as the reform: their number has to be reduced by making it more difficult to obtain the unemployment insurance, but also by choosing the candidates for the professions of spectacle by establishing barriers (diplomas and education controlled by the state). The struggle against hyperflexibility, against underemployment and against low wages of the intermittents and the struggle to ensure a stable and continuous job, "good" remuneration and "good" indemnification to a reduced number of intermittents, must first of all reduce the "excess" of intermittents to the RMI(2), to minimum social benefits, courses of instruction, precarity, the struggle for survival.

This only repeats what has already been happening in the other spheres of economy for thirty years: the policy of cultural labour (create real employment, stable and full-time jobs) divides and fragments the labour market by creating a disparity of situations. It only feeds the differentiation, amplifies the inequalities and thus builds an ideal ground for the neo-liberal labour market management to take root and spread. The (cultural) employment policies are subordinated to liberal logic, because they only segment, differentiate, increase the competition between "the guaranteed" and "the non-guaranteed" and thus enable a policy of "optimizing the differences", the differential management of inequalities in the governance of actions in the labour market.

Unemployment and Invisible Work

The analysis of unemployment ends up with the same disciplinary distinction between normal (unemployment insurance as it was instituted after the Second World War) and abnormal (unemployment insurance as it has been used, diverted, appropriated by the *intermittents*).

Menger, like all the experts in the policies of cultural employment, would like to restore the unemployment insurance perverted by the intermittence (because it also finances the activity, the cultural and artistic projects and the life projects of the *intermittents*) to its so-called "natural" function of barely covering the risk of losing one's job. But Menger, like the experts, seems to

ignore that in a flexible regime of accumulation, unemployment changes its meaning and its function.

The clear and distinct separation between employment and unemployment (unemployment as the opposite of employment) that was established in a strongly different regime of accumulation (standardization and continuity of production and therefore stability and continuity of employment) has become transformed into a more and more intimate imbrication between periods of employment, periods of unemployment and periods of education. The first thing that literally strikes you when you analyse the cultural sector is the disjunction between work and employment. The duration of the latter only partially describes the amount of real work that exceeds it. The working practices of the intermittents (education, apprenticeship, circulation of knowledge and competences, modality of cooperation etc.) pass through employment and unemployment without being reduced to them. The market pays for the employment, and the unemployment insurance pays, partly, for the work that exceeds the employment.

Employer/Waged Worker

The change that we are living through is also completely erasing the clear and distinct separation between waged worker and entrepreneur, especially in the regime of the intermittence, where a figure has already been developing for years, which has remained unnoticed by statistics and sociological analyses, that we in our investigation have called "employer/employee". It is a hybrid figure that the intermittents bring to life and try to manage in order to adapt themselves to the new demands of cultural production and go on with their own projects at the same time. The employers/employees escape from the traditional codifications of the labour market. They are neither waged workers, entrepreneurs nor independent workers. They accumulate their different functions without being reduced to any of those categories.

This hybridization of statuses poses serious problems for the governance of the labour market. The Latarjet report about the living spectacle blames principally this hybridization for the bad way in which the market functions

(1) Holmes, Brian (2004). Reverse Imageneering, Nifca-info 01/04, edited by Marita Muukkonen & Tomas Träskman, Art-print Oy, Helsinki, 4. (Added by editors of Framework)

From the starting point of the "reform" of the unemployment insurance of the intermittents du spectacle, it is possible to see how a market logic is constructed and imposed on culture, because until the 80's only a part of the economy of the cultural sector (the cinema) functioned according to a logic of competition and of supply and

demand. Even today there are some spheres of production and distribution that are not directly production and distribution that are not directly controlled by the market (especially in the area of live spectacle, but not only there). These are the last spheres that have to be subjected to commer-cial logic by means of "a reform of unemployment

(2) RMI (Revenu minimum d'insertion) is a French form of social welfare, a minimum allocation granted to all who do not have any other form of unemployment insurance (translator's note).

and advocates recovering the normal functioning of professional relations that would put an end to this exception and re-establish the subordination of the waged worker (with his own rights) and the autonomy of the entrepreneur (with his responsibilities).

This so-called "exception" of the intermittence is about to become the "norm" of the regime of waged labour, as the co-ordinations of intermittents have been declaring since 1992. The "ordinary" or "classical" categories that Menger would like to apply to the regime of intermittence hardly even apply now in the "normal" sectors of the economy. The difference between intermittent unemployment and unemployment in the other sectors is a difference of degree and not of nature.

Since the early 70's the working time has only partly covered the practices of work, education and co-operation of the intermittents, and unemployment is not simply a time without activity. Unemployment insurance not only covers the risk of losing your job, but also guarantees the continuity of income which allows you to produce and to reproduce the imbrication of all these practices and all these temporalities that are necessary for working.

Employment imposes itself as the solution to all economic and social problems, as an objective (reality) which is self-evident, as a habit of thinking and acting. The power to problematise is strictly limited: the discourse about employment and unemployment limits the field of the possible, defines what is legitimate and what is not, and defines the outlines of possible action.

The Role of the State

Foucault admits that the liberal theory and practice are prompted by the will to reduce as much as possible the intervention of the state on the governed. But we have to add immediately that they are working in parallel to generalize the governance of the enterprise to apply to the whole of social relations and that the state itself is assuming, urging and organizing the generalization of practices of "human capital" in all the spheres of society. The state that is, as so often already in the history of liberalism, far from being an external and hostile force to homo oeconomicus and its laws, is the institution that initiates, experiments, puts into effect and distributes the new modalities of governing modes of behaviour. It is the state that seems to be most adeptly carrying out (at least in the case of this conflict) experiments with new modalities of governance and that best manages the heterogeneities, the frictions, the junctions of different dispositives (economical, juridical, social, of the production of signs, discourses and knowledges). One might even say that the state adapts itself faster than the other institutions to the new distribution of action language and fiction language, because it acts on the basis of a general point of view, which still seems to be missing (in the case of this conflict) from the governance of the enterprise.

In any case, we can affirm that the management of the conflict by the Culture Minister Donnedieu de Vabre has shown us with which obstacles, with which frictions, with which complementarities the logic of the governance of an enterprise combines with the logic of state governance. The intelligence and cynicism of the Culture Minister, who was nominated after the dismissal of the acting minister d'Aillagon within the first year of conflict, has enabled him to participate actively in organising the construction of the cultural market by taking advantage of the new distribution of powers (action language and fiction language) in the implementation of cultural policies. In order to understand the transformation of the modalities of governance within the administration, we privilege some modalities of action.

The juridical and administrative dispositive of the Ministry of Culture restructures itself according to new finalities: the construction and the imposition of the market logic in a branch like that of the live spectacle, in which it has been marginal or absent. The Culture Minister has set up a "cultural employment policy" which subordinates the granting of subventions and funding possibilities for companies to the capacity of those same companies to produce stable and full-time employment. The structures that have the means to hire permanent workers survive, the others are forced to leave the market of the cultural industry. They are going to increase the amount of "superfluous" workers who have to be pushed into

the RMI, precarity etc. This procedure most directly attacks the hybrid figure of employer/employee. An economic principle takes the place of a political criterion and becomes the standard of artistic and cultural activity.

Administrative control of small companies that is centrally planned by the state, police intervention and strict surveillance in order to discourage all the "cheaters" who are not using the unemployment insurance within the limits of "normality", but are extending its function to the point that it includes the protection of the projects of life, of education, and of the work of the intermittents, are also a part of the logic of "selection".

The Transitory Benefit Fund, which in 1995 enabled the "recovery" of 21 000 intermittents excluded by the new rules of indemnification introduced by the reform, works according to the double logic of pacifying the conflict and breaking the continuity of the movement, encouraging at the same time the implementation of the reform. The Fund is not only occupied with insuring the intermittents "excluded" from the regime of indemnification, but also with assuring the time needed for the reform to produce its effects. The state not only accepts the logic of the reform, but also, by imposing the permanent contract as a norm and measure of cultural and artistic activity, amplifies and deepens the effects of divisions and exclusion from the labour market. The Culture Minister's language of action pursues the same objectives of the "reform", specifically to reduce the number of intermittents but from the point of view of cultural policies and not of unemployment insurance. He declares and adopts the same logic here as the scholar Menger: fewer intermittents, but "better" paid and "better" insured. This allows him to find a wide network of alliances, because the only actors in this conflict who don't accept the discriminatory logic of employment (with a permanent contract) and the divisions that it produces amongst the organisations of the intermittents, are the co-ordinations.

Conclusions

Foucault defines two modalities of governing behaviours that refer to two human techniques and to heterogeneous

modalities of governance, the "disciplinary" techniques and the "security" techniques. It seems that in the contemporary organisation of work these two technologies refer to two different modalities of subjection.

One is disciplinary subjection, which can be represented in the organisation of work by subjection to waged labour ("work ethic", obedience, discipline). The other is securitary subjection, which can be represented by "human capital" (ethics of subjective implication, risk, making a decision) or by the autonomy of the entrepreneur (to be the entrepreneur of oneself). The two modalities of subjection that we have analysed, that of the subjection of the work force to waged labour and that of the autonomy of human capital or of the entrepreneur, are far from being opposed or contradictory, but instead co-operate to fix a new organisation of power. However, the two normative frameworks are opposite to each other to some degree. The subjection to waged labour emphasizes obedience, subordination, discipline, limits set by interdictions, accepting the destiny of a waged worker in return for a secure life, while the subjection of human capital appreciates action, responsibility, autonomy, capacity to choose and to decide, individual capitalization and the will to build your own destiny. The subjection of the waged worker and the subjection of human capital (or of the entrepreneur), the neo-liberal logic of the market on the one hand, and the logic of the defence of standard waged labour on the other, co-operate to establish a new governance of behaviours that is precisely what the practices and struggles of the intermittents are refusing, escaping, turning around, fighting against.

What was at stake in the struggle was not the economic deficit of the unemployment insurance of the regime of intermittence, nor the productivity of cultural industry, but the mode of governing the practices and the conducts of a mobile "work force" that, while escaping from both the subjection to waged labour and the entrepreneurial subjection, combines elements, characteristics and functions from both of them in a new process of subjectivation, which is irreducible both to the practices of a waged worker and to those of an entrepreneur. +