

## Thomas Breda : “We must implement a new 'governance of workers' and through that, attack the institutional barriers to social dialogue in France”

*Company negotiations are at the heart of a paradox: little used by the actors involved – firms and staff representatives – and little studied by economists, they could, however, be the key to unlocking a deficient social dialogue... and offer new perspectives on the French economy. For Thomas Breda, the conditions are far from being in place: we must begin by creating new forms of “workers' governance”.*



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Since you finished your PhD in 2011, you have been interested in company negotiations, which today are the subject of much public debate. What does your research tell us about the changes introduced by the 2016 labour law?

My research, done in part along with Philippe Askenazy and Jérôme Bourdieu, first sheds light on some concrete aspects of company negotiations: their prevalence, quality, the situation of the actors involved, etc. On this research theme that has rarely been taken up by economists, simple statistics are sorely lacking, so that is where we have to start. A quick look at the Dares surveys (1) shows, for example, that in two thirds of establishments, where there should be union delegates to do the negotiating, there are none. In the remaining third, negotiations do not take place 33 per cent of the time, even though they are obligatory, and where they do take place, in a third of cases, they fail to reach an agreement. All of this implies that **only ten per cent of business establishments that can legally sign accords do so effectively**. Thus the idea that the rights of employees covered by the labour law could until now be negotiated inside companies remains illusory for the great majority of them.

That means that the labour law in its new form would have no overall effect?

There is no doubt that that is what it means for a certain number of small and medium enterprises, at least in the short term. But that does not make it a good reform. While debates among academics on this law are generally about how it intends to make the labour market flexible (2), I defend the idea that **the envisaged reform basically does not address the dysfunctions of company negotiations** (3). Before putting this at the heart of labour relations regulation, we must address the deep institutional causes that inhibit social dialogue in France. This is a prerequisite that has been forgotten. Some seem to think that giving weight to enterprise negotiations will be enough to create positive new momentum, inciting employees and employers to negotiate further. But the numerous opportunities for negotiating and derogation from the hierarchy of norms already offered by the labour law are rarely used by the social partners (4). I do not see why this reform would change that situation.

To turn to more general matters, your last book (5) presents a detailed portrait of staff representatives in France, and you point to a current real ignorance about this group.

There is a great diversity among staff representatives (SRs), from which emerge two principles types: union delegates – quite oriented towards negotiation – and staff delegates – who play a consultative role. There are currently more than 600,000 SRs in France, which is around six per cent of employees of the non-agricultural business sector. Note that this is only an estimate, however, because there are no official figures of staff representatives. Compared with other countries, **France is a special case of “representative” unionism, because we have few unions but lots of staff reps**.

So, in this country there are as many SRs as non-SR unionised workers. A little more than half of the SRs are unionised and conversely, one union member in three is also a SR. The book I have just written first of all draws up a statistical overview of these staff reps: Who are they? What are their rights in practice and to what extent are they really protected? What does their representative work consist of and how much time do they spend on it?

What are their career profiles? Etc. (6). These figures help us to understand the problems affecting local social dialogues in firms.

### Do you make any concrete proposals?

**There are several routes to take in relation to the rules that define our social dialogue today.** First, it is essential to improve the status of representatives - the better to protect them (7), but also the more to involve employees in their election and evaluation; in particular, the goal is to increase the number and diversity of the candidates. Second, we must create new ways to improve “democratic representation”, to facilitate voting, to keep track of the quality of representation, to determine why there are no remuneration or promotions associated with fulfilling these functions – as there are for management! I also propose, in the third place, that we think about new modes of financing social dialogue: a mutual fund, created through contributions from both employees and employers, could pay for the hours spent in delegation. A dialogue requires two parties, why shouldn't the funding be shared? (8) Fourth, it would be interesting, it seems to me, to encourage a united voice for representatives and unions when they face the employers, expressing the interests of employees; it is well established that differing positions weaken those who should rather be presenting a united front. Finally, we might also think about ways of representing employees on the boards of large firms, as is done in Germany, for example, where they hold 50 per cent of the seats (9).

### How do these proposals fit into a broader research programme?

I am trying to study the representation of staff as we might study the governance of a firm. For several decades, the tools of modern economics (theory of contracts, incentives, asymmetries of information, and the like) have been used to study how management represents the interests of capital. Some also see in that one of the explanations for the weakening of labour vis-a-vis capital (slightly decreasing in added value; assets and income from assets increasing, etc.): governance of the modern firm has kept step with the dispersion of capital and contributed to the transformation of employers once sympathetic to their workers into strong advocates of the interests of shareholders.

Regardless, it is clear that employee representation has been a blind spot in economic research, though it could well obey the same logic: **we can think about the structures and institutions that would better represent the collective interest of employees. It is in this sense, namely, in a study of the “governance of employees” that I am developing my research..**

As it currently functions, the “governance of employees” reflects the fact that as employees, staff representatives (on executive committees, during negotiations, and on boards) operate within the context of the hierarchical authority of their employers. This situation facilitates strategic behaviour on the part of employers (discrimination and attempts to corrupt SRs, for example), and consequently, also on the part of the representatives themselves (taking positions for personal reasons, for union career reasons, inclination to sell “social peace” for personal advantage, etc.) (10). Although multiple equilibria can exist in theory, my research reveals wage penalties in the order of an average of ten per cent directed against union delegates. While it is almost impossible to prove formally that these penalties reflect discrimination, there are numerous indicators that this is the case (11). One would like, therefore, to reduce this link of subordination between employers and staff representatives, in such a way as to protect the SRs and guarantee that they are encouraged to transmit all the information at their disposal to the employees whom they represent.

### You articulate this research programme with rent sharing...

Competition is far from being pure and perfect, and recent economic research has revealed a number of mechanisms that have in common the generation of rents: friction adjustments linked to time spent job-seeking, costs of changing employment and shifting capital, matching mechanisms implying that an employee will work better in one firm than in another... These economic rents should be shared but it is hard to define a pertinent criterion for the distribution. In a world with so many rents, we can assume that it is the production factor best organised to capture them – that which has the best governance – that comes out the winner. And therein lies the importance of the question of employee governance.

- (1) From the REPONSE enquiry carried out on ten million employees.
- (2) See for example the PSE press review on the Labour Law: <http://www.parisschoolofeconomics.eu/fr/actualites/loi-travail-revue-de-presse/>
- (3) « La loi El Khomri oublie la réalité « des négociations dans les entreprises » », by Thomas Breda – Le Monde, 16 March 2016 : [http://www.lemonde.fr/idees/article/2016/03/18/la-loi-el-khomri-oublie-la-realite-des-negociations-dans-les-entreprises\\_4885364\\_3232.html](http://www.lemonde.fr/idees/article/2016/03/18/la-loi-el-khomri-oublie-la-realite-des-negociations-dans-les-entreprises_4885364_3232.html)
- (4) « La réforme du code du travail » dans la Vie des Idées, by Thomas Breda (26 January 2016) <http://www.laviedesidees.fr/La-reforme-du-code-du-travail.htm>
- (5) March 2016, « Les représentants du personnel » by Thomas Breda, Presses de Sciences Po | Sécuriser l'emploi
- (6) For more “statistical facts”, see the book, or Bernard Domegue's article Actu-CE of 11 January 2016 « Tout ce que vous avez voulu savoir, ou presque, sur les élus du personnel » <http://www.actuel-ce.fr/tout-ce-que-vous-avez-voulu-savoir-sur-les-representants-du-personnel>
- (7) There are several paths , including facilitating procedures aimed at proving discrimination against unions, and opening the doors to third-party functions in case of conflict..
- (8) "Une cotisation sociale permettrait de financer les heures de délégation", interview with Thomas Breda par Actu-CE 12/01/2016 <http://www.actuel-ce.fr/une-cotisation-sociale-pour-payer-heures-delegations-representants-du-personnel>
- (9) See in particular <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Germany>
- (10) See J. Bourdieu & T. Breda (2014), «Les employeurs face aux représentants du personnel : une situation de discrimination stratégique ?»
- (11) For example, more than one third of employees cite fear of reprisals as a reason for the low level of unionisation in France (TNS-SOFRES poll).