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## Uncertainty and undecidability in the contemporary state: the dualist and complex role of the state in Spanish labour and employment relations in an age of 'flexibility'

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### Introduction

When discussing the state and labour regulations, the debate tends to focus on the role of the law. From a sociological, or politico-sociological, perspective it is often the case that we like to complement such an approach with a greater sensitivity to other forms of representation at the level of the state, such as the role of 'social dialogue' and the role of the various state entities and authorities such as labour inspectors. There is a tendency sometimes to see the state as one factor in an array of social and institutional relationships, but this tends to obscure the more complex role of the state. In addition, the interests of the state and the way it aligns to specific social actors can also be much more complex and even contradictory, especially in terms of balancing economic and political imperatives when it comes to questions of efficiency and legitimacy (Offe, 1984). The state is, as we know, not merely the political arm of some dominant economic and social elites (although it can be), but a complex and even contradictory space, an ensemble of institutions balancing representative, interventionist and institutional dynamics (Jessop, 1982, 2002). The state can therefore be seen as 'a relatively unified ensemble of socially embedded, socially regularised, and strategically selective institutions, organisations, social forces, and activities organised around (or at least involved in) making collectively binding decisions for an imagined political community' (Jessop, 2002: 40). The state can therefore be interpreted, as far as Jessop is concerned, at various

levels of activity such as modes of political representation; internal articulation of the state apparatus in the forms of modes of intervention and their realisation; political projects articulated by different social forces regarding such forms of representation and intervention; and broader hegemonic projects that attempt to legitimise the state in relation to economy and society (Clark, 2001; Hyman, 2008; Jessop, 2002: 42; for a further discussion, see MacKenzie and Martínez Lucio, 2014). To this extent, the question of coordination of such levels and different approaches in public policy and state agencies politically and organisationally is one we need to be alert to (Crouch, 1993). What is more, the state intervenes not just in social spaces but also in ideological ones where specific issues, sensibilities and even national debates develop and configure the nature and impact of state policies (Locke and Thelen, 2006). Within these social and ideological spaces the question of gender and equality is a significant dimension which is often missing, but which, when added to any analysis, will allow us to evaluate more clearly the extent and failings of labour rights and policy – as Jill Rubery and her colleagues' work points out (Fagan and Rubery, 1996; Humphries and Rubery, 1984; Rubery, 2011; Rubery and Fagan, 1995). These insights on the ambivalence of regulation and employment relations contribute to the approach this chapter takes in terms of looking at the inherent ambivalence in questions of regulation and state policy in relation to different groups of workers and social agendas. The ways in which working time, pay systems and training are structured needs to be understood in terms of their contradictory effects; and while the issue of gender is just a part of this chapter the relevance of such studies is that they ask us to focus on different state or regulatory projects and how they intertwine and even contradict each other. Meardi and colleagues (2016) have similarly argued that a gender-sensitive perspective has enriched discussions on the state in labour and employment relations and broadened the way in which we seek to evaluate the role of the state across different agendas.<sup>1</sup>

This approach is important for this chapter because the state in Spain has had a series of competing projects and strategies – not to mention narratives – which have led to a contradictory set of agendas and developments that have increasingly been at odds and in conflict with each other. Hence, we need to understand the way in which the state has developed and responded to competing challenges and issues through its complex and varied institutional make-up. To appreciate this, we must also place the question of the state in relation to work and employment in a historical context so we can see how these specific issues have emerged; how the state has been responsible or not for such issues in the past, and if so in what form and through what means; how it has responded to them through various projects and different apparatus; and what kinds of narratives and sensibilities, if any, have emerged to frame discussions. This allows us

to appreciate the difficulty in clearly delineating any uni-linear or mono-causal narrative of the Spanish state as either 'progressive' and social or simply 'regressive' and neoliberal. In many senses, the state in responding to the development of a market-oriented economy and globalisation on the one hand is also developing social agendas and political forms of rights at work on the other; many observers have stated that the tensions between these since the 1970s is quite acute. The challenge of establishing a system of rights and regulations after the Francoist regime and of creating organised and established approaches to regulation during the decline of the more organised and Keynesian state approaches within Europe (Lash and Urry, 1985) has meant that strategic initiatives have been important in ensuring – or trying to ensure – the effective reach of that regulation. After discussion of this subject, this chapter focuses on the way 'social dialogue' (a slightly ambivalent term generally, and no less so for Spain) from above and forms of intervention and labour market policies from below have been used to sustain what has arguably emerged as a fairly successful system at one level, but one which has also presided over extensive labour market fragmentation.

## Constructing the public sphere in the realm of work and employment

In a comparative study of the impact of austerity on Southern European economies since 2008, Koukiadaki and colleagues (2016) have argued that those normally right-wing and/or elite European Commission-based commentators and politicians criticising the lack of labour flexibility in Greece, Portugal and Spain have tended to ignore the fact that these systems emerged from oppressive regimes where you would not have anticipated the eventual levels of institutional trust and joint working that has overseen labour relations and work-related issues more generally after those periods of authoritarianism. The relative economic success that the Spanish system saw in formal terms, and its far-reaching coverage in terms of collective bargaining, is something that, in 1981, one would not have easily foreseen. In this respect, any analysis has to be mindful of the perspectives and predictions that shape our assumptions and views.

The case of the Spanish state was one where the formal reach and role of state organisations were fairly extensive in terms of industry and political life during the Francoist dictatorship from the late 1930s to the mid-1970s. The paternalistic nature of the state in some sense had a Fordist and authoritarian-regulation perspective and was politically supportive of employer interests. However, in such a context the detailed organisation of work-related issues – the *ordinanzas*

*laborales* (labour ordinances) come to mind, as does the state-led system of worker representation through the vertical unions – means that the arena of workers' rights consisted of elements which in turn configured some of the later legacies of the regime and post-regime period. This curious background became a focus of engagement later in relation to state resources for organised labour and questions of job classifications. This meant there was a tension between the formal state concern with order in labour relations (pre- and post-1975) and the more decentralised realities that existed in the actual arenas of labour relations, which had to be resolved in the political domain (Molina, 2006). This and the historical context bring to the fore the argument that the state is involved in the labour-relations arena in curious ways (Molina, 2014). In fact, the role of the political is important in terms of resolving the limitations of the state in Spain during certain periods (Martínez Lucio, 1998), yet contrary to Molina's seminal work (see 2014, inter alia) I would emphasise the much more contradictory nature of state projects and the vacillation or ambivalence in state trajectories as salient factors. In addition, the systematic and strategic features of the state seemed limited to a short-term and deferential approach to finance capital and to the informal practices of employers (Banyuls and Recio, 2009). The state was also relatively inegalitarian in terms of labour market policies and inclusiveness for a long period of time – committed to a highly gendered and hierarchically paternalist view of work and the role of women (Lopez and Santos del Cerro, 2013).

Yet the first decade or so of the post-Francoist years saw the development of a system of formal collective and individual rights which underpinned trade union representation and which ensured – what appeared then to be – a robust set of constitutional rights for workers through the construction of a collective voice, the establishment of majority representation and the power of unions through systems of works councils and collective bargaining (for a reflection on that earlier period, see Baylos Grau, 1999; see also Alonso, 1999 and 2007). The development of election-based works councils (*comites de empresa*), trade union branches (*secciones sindicales*) and principles of collective bargaining representatives contributed to a system which was one of the highest in Europe in these terms, although it had one of the lowest memberships. This allowed joint regulation to develop, although, as suggested in parts of this chapter, in some cases there are question marks over matters of implementation and the role of the social content of collective bargaining.

Within the others spheres of the state, beyond that of the area of the law, the development of the public sector has been significantly developed and modernised in areas such as education and health, with systems of labour relations of a more structured nature being enhanced (leaving aside for the time being

the question of austerity) in terms of employment stability and collective voice, even with the functionary status of the individual employment relation. Public sector labour relations have seen relatively important improvements in terms of female worker inclusion and the development of what could be termed 'good employment relations and conditions'. In this respect, this has been an important signalling feature of the role of the state in questions of work and employment, although the push to greater flexibility and wage controls since 2008 has suggested a susceptibility and lack of significant political influence by trade unions. What is more, the ongoing extension of the state labour inspectorate and its integrated and professional orientation have been seen as a basis for the innovation and renewal of state roles (Benavides *et al.*, 2009; Meardi *et al.*, 2012; Sesé *et al.*, 2002). The use of elaborate information systems and joint working with social partners become features of some aspects of the labour inspectorate, although resourcing has always been a concern for the trade unions in relation to their views of this aspect of the state, especially when compared to certain other European cases (Morillas *et al.*, 2013). In some regional-national states (*autonomias*) within Spain the link between state organisations and social partners was more advanced at key points with this space assisting in the coordination of these different roles.

Nevertheless, a body of collective and individual rights emerged after the mid to late 1970s in a context of extensive industrial restructuring and labour market change. The role of systematic and detailed policies to withdraw public subsidies and restructure key industries was a key feature of the Socialist government's industrial policies in the 1980s. For some this represented a more market-oriented approach to industry and development (Smith, 1998). The extent of redundancies was extensive and involved a range of compensation programmes and welfare support services which allowed some space for trade unions, employers and managers to mitigate some of the negative aspects of the changes. The cost of laying people off or making them redundant was relatively higher in Spain when compared to other parts of Europe, and, for example, in some key industries such as steel there were exceptional payments and support provided to specific communities along with retraining initiatives. This restructuring strategy, which was met by various mobilisations and strikes by the trade unions, was nevertheless resolved through complex micro-level negotiations between the main actors over the conditions and support for restructuring (Martínez Lucio, 1998); for some, this has meant that the trade union role has been more engaged in facilitating change, as in telecommunications, although this led to a labour relations culture of monetising and focusing on the quantitative aspects of change as opposed to the qualitative ones (Rodríguez Ruiz, 2015). It also led to labour relations success being viewed as avoiding conflict and

facilitating downsizing, albeit with significant remuneration for those affected in the more organised and unionised parts of industry and the economy. In this respect the nature of 'social' dialogue was skewed around particular agendas in the 1980s, establishing a particular language of restructuring. The main trade unions argued for a broadening of this agenda although the reality of different circumstances forced compromises and a dialogue based on negotiated restructuring and downsizing. The state's key ministries in relation to employment and industry – working with regional autonomous governments – were focused on this *reconversion*. However, much debate has focused on the cost of restructuring and of the payment to workers in high-profile sectors, but as trade unions and progressive economists attempted to point out, the nature of the welfare state in terms of unemployment payments and social benefits remained limited although there were some improvements.<sup>2</sup> Working alongside these strategies was the state's conciliation and mediations service, which allowed for individual negotiations to take place between workers and their organisations during moments of change and thus, while on occasions it did lead to higher redundancy payments, also meant that the process could be fast-tracked and avoid collective mechanisms of regulation (Martínez Lucio and Blyton, 1995). Hence, individual mechanisms of regulation were developed to bypass or 'parallel' collective frameworks creating a curious set of dual universes of regulated and deregulated realities.

Another feature of the state which limited the impact of the collective and newly formed individual framework of rights at work was the question of the under-funded nature and limited reach of the judicial system in relation to work and employment issues. The slow and complex nature of the judicial system meant that cases concerning health and safety or wages, and not just redundancies, would take considerable time and thus lead to greater use of informal and individualised – and non-regulated – solutions between employers and workers. In effect, this would create – perhaps – a form of voluntarism and a more deregulated culture even if the system was more regulated in theory. This was sustained by an emergent political discourse that steadily consolidated itself by extolling the Anglo-Saxon approach to regulation and organisational management.<sup>3</sup> The current post-2008 austerity crisis also led to a series of reforms in terms of collective bargaining that further facilitated management's opt-out or modifications of collective agreements in certain circumstances (see Rocha, 2014; Fernandez Rodríguez *et al.*, 2016).

In addition, since the 1980s the state has steadily facilitated the development of specific forms of temporary and agency contracts. For some this has meant a dualist state policy which has led to some of the highest levels of numerical flexibility in Europe and a push to a more fragmented social and economic context in

terms of work and employment (Sola *et al.*, 2013).<sup>4</sup> For others, this represents a situation where Spain has seen the emergence of an insider–outsider labour market (Dubin and Hopkin, 2014). Hence, the state has deliberately created counter spaces to the collective space of dialogue and regulation it has overseen, creating a dualism which has been regulated by different sets of organisations, both public and private. For Prosser (2015), Spain is part of a set of countries where such changes are as much about liberalisation of labour markets and not just dualist tendencies. In terms of gender, ongoing equality measures have not been able to stem the dualist traits within the economy in terms of the position of women (Lux and Wöhl, 2015). Miguelez and Recio (2010) have pointed to the way in which labour market inclusion policies intended to benefit women in Spain have not been fully complemented with policies that have created more family and working-time support. In terms of social expenditure, the country is still below the European norm (Miguelez and Recio, 2010). Even before the 2008 austerity crisis, the Spanish labour market was uneven and exhibited dualist characteristics. There had been substantially high levels of temporary contracts and there operated an informal dimension of work in sectors such as construction and especially agriculture. Young workers and women had historically found it difficult to get contracts in permanent core employment (Fernandez *et al.*, 2016; Fernández Rodríguez and Martínez Lucio, 2014), and these core sectors were not a main employment sector for immigrant workers either. Sectors such as agriculture, hospitality, domestic service and construction sectors have also been prone to higher levels of outsourcing and temporary contracting that have created a more precarious experience for migrant workers and the organisation of that employment. In addition, the unemployment rate in the past few years for immigrant communities has regularly been above 40 per cent. Hence any discussion of the labour market needs to account for the complex and sometimes contradictory roles of social reproduction (Humphreys and Rubery, 1984). The understanding of the role of the state in this regard in relation to labour and employment relations needs to be broadened. What is more, equal opportunities approaches must be more clearly linked to systems of labour market organisation, policy and public discourses (Fagan and Rubery, 1996; Rubery and Fagan, 1995).

While trade unions have involved groups such as migrants through various social inclusion strategies – in some cases with the help of state resources – the overall system of welfare and social service support has been constrained and uneven. We need to comprehend that these economic and social regulatory characteristics counter many of the political initiatives that emerge from various social and state sources in relation to the politics of inclusion. In addition, the extent of ongoing social and organisational hurdles in Spain is

very apparent, especially for non-EU migrants due to the sectors they work in as well (Solé and Parella, 2003). There are serious mismatches in the labour market in terms of immigrants and their skills, for example (Fernández and Ortega, 2008).

To this extent, while the level of collective bargaining coverage was high for the past 20 to 30 years, most workers in sectors such as construction and agriculture relied on agreements signed at the national and provincial levels, with these being known for their limited content and authority in real and effective terms (Martínez Lucio, 1998). In addition, the labour market saw the entrance of immigrant workers in those sectors which had a weaker tradition of union organisation and regulatory coverage: hospitality, construction, domestic service and retailing (Cachon, 2007). These are sectors that were disproportionately affected by the economic crisis in the post-2008 period but they were already poorly protected in terms of labour market regulation and policy in Spain.

Yet the irony is that this growing dualism – coupled with the changing social character of the labour market in terms of younger workers, women and ethnic minorities who are mainly in poorly paid and insecure jobs – has meant that the state has had to respond to these forms of development by creating informational and support services for marginalised workers and intervening on questions of training and development alongside social organisations and trade unions (see Martínez Lucio and Connolly, 2012). One could argue that trade unions have been linked to various state bodies and representative structures, although you could not claim that Spain has a strong corporatist system of labour relations – however, as discussed later, a debate on this does exist. The link to the political parties is much more flexible but relations with the main right and left parties up until this time were fluid, with the left relatively united in terms of social dialogue (for some, the two majority trade unions had had too strong an institutional social dialogue relationship with the right-wing *Partido Popular* from the late 1990s up until 2003): ‘Stronger state–union relations in Spain result in more inclusive political action and servicing towards immigrants by Spanish unions. By contrast, the multicultural, pluralist nature of the UK labour market and public sphere result in British trade unions paying more attention to linguistic diversity and community organizing’ (Meardi *et al.*, 2012: 19). Yet sectors such as agriculture, hospitality, domestic service and construction have been prone to higher levels of outsourcing and temporary contracting, which has created a more precarious background for the migrant worker experience and labour organisation. The fragmentation of the economy has led to a growing disconnect between marginalised workers and trade unions – regardless of the institutional efforts of the latter. Increasing government strategies of neoliberal



reform, in terms of limiting the workers covered by sector agreements and collective bargaining more generally, and of limiting the ability of trade unions to challenge management attempts at restructuring over the past decade, have undermined the regulation of employment. In effect, the state is caught trying to limit and contain some of the problems it creates through the dualist legacy it has developed.

### The question of social dialogue in Spain: overcoming challenges from above?

While the level of participation in terms of representation at the state level with regards to trade unions and employer organisation is not as embedded as that of certain Nordic countries, the level of political exchange between the three main ‘actors’ (to use the language of the corporatist and neocorporatist debates) is intriguing and for some this has represented an important feature of the past 40 years (Guillén Rodríguez and Gutiérrez Palacios, 2008). The role of social dialogue in some form or another has been considered by various commentators to be a significant feature of Spain’s political dimension and labour relations system. In the face of possible conflict – both industrial and political – there has been a view that the Spanish system has a capacity for reconciliation and realism which tends to underpin the main features of emerging democracy; this could be due to the memory of authoritarianism and the civil war, and it may also be due to the relatively inclusive nature of the nation-building projects since the early 1980s with their focus on Europeanisation, modernisation and ‘technological progress’. Between 1982 and 2010 (and in some respects up to 2015) the main forces of the parliamentary left and right have managed to create a language of progress which has been significant in framing national industrial debates, and at the heart of such approaches has been the focus on the importance of ‘democratic consolidation’ (Linz and Stepan, 1996). Within this context, the development of the state has been a key feature of nation-building around the main aspects of health, education and transport. There have been question marks over the nature of that development and the extent to which it has been premised on an uncoordinated and unregulated set of developments in terms of the construction and banking industrial sectors; however, in discursive terms, the 30 years referenced previously was marked, broadly speaking, by certain features of consensus.

In terms of social dialogue, there is a range of scholars who argue that this has been sustained by a flexible but continuous – even if interrupted at times – system of national agreements of a neocorporatist nature. Such agreements have

varied from tripartite national agreements on wages and employment through to specific agreements on questions of training and working conditions (Gonzalez Begega, 2015; Guillén Rodríguez and Gutiérrez Palacios, 2008). There has been a shift from the tripartite stabilisation and reform-type agreement to the more specific and focused agreements between employers and major trade unions, with the trade unions managing through their relative power to sustain a system of dialogue (Molina and Rhodes, 2011). What is more, trade unions have taken to political exchange in terms of institutional roles and regulation as it is less of a risk than bargaining over restructuring and change – as was the case in the 1980s (Molina, 2006) – and this can also guarantee a supportive framework for a coordinated collective bargaining system (Molina, 2005). In effect, the focus of bargaining has also moved to a supply-side orientation, as it has in issues such as training, which we discuss in the next section.

Hence, there is a curious flexibility to the system of representation and it has become an interesting framework for other levels of labour relations regarding the role of the political in labour relations (see Hamann, 2011). In fact, during the period of austerity and the crisis of joint regulation resulting from the nature of labour reforms driven by the right-wing government (2010–15), irrespective of the presence of short general strikes and political tensions, there have been many instances of negotiation and discussion in relation to various aspects of labour relations (see Gonzalez Begega *et al.*, 2015) – the system in effect ‘goes down’ at certain moments, to use a computing term, but it has an ability to ‘reboot’ and revert to negotiation quite swiftly according to such authors in some cases.

What is more, there are various ministerial and functional forms of tripartite engagement in areas such as migration policy and equality. The emergence of forums for the discussion of legislation and the use of public resources has been a visible part of the state’s structure, which has also reproduced itself at the level of regional autonomous states, although the politics and general orientation of those levels can limit or enhance such dialogue. The role of the *Consejo Economico y Social* as a national informative and consultative body that includes a range of organisations has been important in sustaining forms of dialogue across the different spheres and interests of society, although it was late in being developed by various governments. This informational political exchange allows for a range of dialogues to exist across various dimensions of the state.

However, there are views that this system is primarily strategic in orientation and not as embedded as would first appear (Martínez Lucio, 1998; Roca, 1991). The argument is that the nature of social dialogue has been more about implementation and less about high-level policy formulation. There has not been any consistent engagement in terms of more strategic economic issues or a focus on

employment (and within that specific aspects of employment). The more permanent or fixed forms of dialogue such as the *Consejo Económico y Social* have not really had the impact some would desire in strategic terms. Some critical voices have argued much of this may be due to the nature of social democracy in Spain, which has been enthralled with marketisation. There is a view that there is a trade-off between strategy and structure – that the collective voice of workers has been strategically restricted to specific times and in terms of specific spaces (Martínez Lucio, 2000) in order to limit the constraints on the evolution of a more globalised and marketised capitalist economy.

In fact, Molina (2007) has argued that for all the grandiose edifice of ‘*concertación*’ it has not quite brought in a tightly articulated system of labour relations, and, in reality, it is more fragmented than at first imagined. The sector level of bargaining has been an uneven feature of Spain and it depends on what sector you look at (Fernandez *et al.*, 2016). A recent study by Sola and colleagues (2013) has shown ongoing reforms of the labour market and ever greater flexibility and change, which, while in some cases concerted and negotiated, have not quite eroded the ever dualist nature of the labour market and work. In part this is due to the nature of the left in Spain until recently and the way in which, in the 1980s, the Socialists did not institutionally embed labour voice (Sola *et al.*, 2013). In effect, the state has used its complex structures to locate labour voice in specific ways and in a strategic manner that have allowed broader economic debates to be limited and perhaps more closed than some observers would prefer to acknowledge. In all fairness, one could argue that trade unions and employers’ organisations may have had resource issues when it came to playing a fuller role in terms of supporting and implementing public policy relevant to them; but any study of the discourse of the years when the Socialists were in power would find few references supporting the importance and value of organised labour to society, even if the legislation was developed to conform with the Western European norm. What is more, the state building project was complex since it balanced economic, social and political imperatives in a manner that did not emphasise a deep role for organised labour and long-term planning.

## The supply-side state and regulation: overcoming the challenges from below?

A major feature of the role of the Spanish state in terms of labour relations and work more generally has been the emergence of a supply-side state. If the space for proactive strategic engagement with social actors such as trade unions

was not systematically developed as discussed earlier, it was the question of supporting the quality of work and workers in terms of training that was seen to be the main focus of regulatory activity and engagement beyond collective bargaining. The question of vocational training and general skills development has seen the emergence of key tripartite foundations that have been central to distributing funds and development training in these areas of activities. Within the European Union – especially in some of the most advanced economies and political systems – the role of social dialogue in relation to training has been seen as important due to the role social partners can play in developing new forms of training and qualifications relevant to a more service- and information-based economy (Stuart, 2007). There are two ways of viewing these types of developments at the macro and micro level. The first sees this as a new space for the rethinking of regulation and organisational roles around the fusing of broader economic roles and a new portfolio of flexible work (Castells, 1986). The second is more critical and argues that this represents a fragmented and reactive role around productivity coalitions – a form of micro-corporatism at best and business unionism at worse (Alonso, 2001) – which is about the potential exploitation of workers. Nevertheless, within Spain, from the 1990s onwards, the state began to expand these new institutional roles in terms of labour relations representation and intervention. At the regional and autonomous government level the role of local state bodies in facilitating inward investment and longer-term planning did see a space for social dialogue in some aspects (Almond *et al.*, 2014).

The context was clear: in the mid-1990s nearly half the workforce had no qualifications (Homs, 1999). The relative exclusion of female and younger workers from the core of the labour market also presented a set of challenges for the state and the nascent system of labour relations in the 1980s – and through to the 1990s as well (Pérez-Díaz and Rodríguez, 1995) – well before the challenge of integrating migration during later decades and dealing with training agendas at that time. The emergence of new systems of qualification, greater attention to access, ongoing support for businesses, and the strategic role of trade unions as facilitators and training bodies was key to this formal state response (Rigby, 1999). Part of the problem is that the employer classes especially at the micro level have not been systematic in developing coherent approaches to learning and training within their workplaces – particularly smaller firms (Castillo *et al.*, 2000; Crespo and Sanz 2000) – hence, social dialogue and neocorporatist institutions have formed a key part of this portfolio of state engagement, especially at the sector level (Rigby, 2002), and in relation to new groups of workers such as immigrants at the local municipal level as well (Aragon Medina *et al.*, 2009). The regional dimension of the state has been equally important in recreating such new roles and forms of dialogue. The argument is that the social actors can

complement the limited reach of the state and create new spaces for its intervention on such matters, fine-tuning this intervention in relation to changing demands, especially beyond the rigid and formal scope of the state's regulation of standard qualifications and learning. This represents a new form of intervention that has drawn the Spanish state into European and supranational dynamics. For the trade union movement, it was a chance to enact roles which were not voluntarily being developed by employers in many cases, and to support the social state and manage specific arenas in the absence of a tradition of coherent intervention and attempts to deal with marginalised workers (Martínez Lucio, 2008). The renewal of trade unionism – its modernisation – was such that it was conditioned by this *historic obligation* due to the limited nature of aspects of the state and capital and Spain.

The problems with this new sphere of regulation and joint intervention have nevertheless been significant. Firstly, these new roles bring new questions of capacity as wide-ranging projects and agendas are engaged with which require a systematic set of structures and internal regulations – let alone cultural changes especially within the aims and activities of trade unions. The way in which these new functions link to the other roles in such organisations becomes a serious question. There is the possibility that the role of the state in learning is integrated but not critically developed, opened up or driven by a more emancipatory view. The agenda is for inclusion into a pre-established system of learning. In the UK this has brought significant discussions as to the remit of trade unions to deploy public funds for broader and skill-based agendas (see McIlroy and Croucher, 2013; Rainbird and Stuart, 2011). Hence the question is not just related to Spain but is broader in terms of labour relations. However, questions over the use or regulation of state funds themselves are a matter which has led trade unions to limit their engagement with such post-industrial shifts in terms of state policy – a period of limiting the use of such spaces has been clear due to a public and political critique of such funding (one which the author believes fails to appreciate the imperative on trade unions to enact training and the ways in which they have ensured a greater scope for learning compared to what would have been the case without their initiatives).

In terms of broader state policy on work and employment, the main problem is that such training or broader employment policies have not always been located in terms of a more proactive innovation and technology strategy (Recio and Banyuls, 2004), regardless of the social-democratic hype and rhetoric in the 1980s regarding the role of new technology and post-industrial possibilities. According to Carvajal Muñoz (2002), such developments in training have focused on soft skills and the enhancing of social control over workers – linking to a state interest in a pliable post-industrial workforce. So, irrespective of the

inclusion of trade unions, employers and others in such processes, there has not been a broader remit of social and economic renewal according to the more critical voices, and this has shaped a specific type of inclusion.

## The regulatory gaps and inconsistencies of the role of the state and the regulation of work

The role of the state in Spain must therefore be located in a context where economic and social changes have not fitted any one general pattern of economic development and transition (Molina and Rhodes, 2007). There has been a range of developments which suggest that the state in general has had to manage a fragmented terrain but has also contributed to that fragmentation, given the manner in which economic development has been framed.

In structural terms, while the state has been able to create a semblance of dialogue and political exchange at some levels – as noted earlier – there have always been concerns about the strategic, partial or momentary nature regarding this dialogue, as noted earlier. The problem is that embedding that dialogue at the level of state intervention and state welfare policies has been fairly constrained beyond the question of training, which in turn has its critics. Furthermore, the attempt to balance the creation of a ‘European’ welfare and social state has been limited by the more market- and competition-oriented features of economic policy; it is as if there is a dual transitional process and competing demands or imperatives (Martínez Lucio, 1998). What is more – as Miguelez and Recio (2010) point out – the welfare dimension and more proactive labour market aspects of the state have not systematically complemented the more formal systems of rights developed by the state since the 1970s. We have also seen sectors such as retailing evolve (Royle and Ortiz, 2009) – and traditional sectors such as agriculture change – and these have been increasingly developed beyond the effective regulatory reach of the project of formalisation and democratisation of labour relations, in part due to the nature of employers in such sectors.

In political terms, this ambivalence has come to the fore in terms of the response to the Global Financial Crisis after 2008 which was based on curtailing the role of the state, limiting welfare support in what is already an uneven social system in terms of social security and unemployment benefit, and in particular focusing obsessively on the reform of collective bargaining, effectively limiting its remit (Rocha, 2014). In effect, this has emphasised the inconsistencies of the state and created greater gaps in terms of its coverage and remit. It has also opened the door to a more coercive state discourse based on the undermining

of collective entities as in the anti-union discourse of the *Esperanza Aguirre*-led right-wing Madrid regional government in previous years – although it must be said that there are inconsistencies and that there are still competing visions of the state.

What we do know though is that the trade union project led by the larger unions to enact regulation and to support the state from below in the light of its inconsistencies has been undermined. The state relies on political involvement and support from civil society – especially one which seeks an ideological hegemony, as any good Gramscian will know. In Spain, trade unions took a decision to engage and support key state roles around services to immigrant workers and communities, training programmes and inspection as they were confronted with a fragmented and less-coordinated employer class and state system on such matters which was not consistent socially (Martínez Lucio, 2007). Yet the last five years have seen a serious challenge to this project on the ground due to limitations in funding and problems with credibility and, in extreme cases, malpractice. This has exacerbated the crisis and the inconsistencies of the state.

## Conclusions

The role of the state in Spain since the 1970s has therefore been complex and multifaceted, and has been configured by a range of factors, both structural and strategic. One can begin to judge the nature of the state from various political and historical perspectives. Much will depend on one's starting point and where one's analytical focus or gaze falls when starting the story of the Spanish state in relation to labour relations.

On the one hand, there is a narrative which is mindful of the very deep challenges facing the state, and the way the inefficiencies of the curiously and quite expansively industrialised Spanish economy under the Franco regime had to be transformed and renewed in the context of the industrial crisis of the 1970s and 1980s – and how a system of social dialogue had to be constructed in very politically challenging circumstances. Within this context, a form of social dialogue – that somewhat broad term – and political exchange emerged that was able to configure a relatively coordinated set of joint regulations and regulatory processes in terms of employment conditions. Within this context there has been a regularity in terms of agreements and negotiations – a strategic ability to overcome structural challenges (Roca, 1991; Gonzalez Begega *et al.*, 2015). Trade unions have been brought into new roles and formal arenas which have sustained a system of maturity in terms of regulation.

On the other hand, there is a view that social dialogue has been truncated and uneven. The increasing decentralisation of the state in territorial terms has not necessarily exacerbated this as it has depended on the economic and social policies of the autonomous governments in questions.<sup>5</sup> There is a belief though that the inclusion of a social voice at such a level has been uneven and rarely consistent. What is more, the 1980s are seen as a period when the opportunity for labour inclusion – and the development of a systematic counterpoint to the narrative and fetishising of post-industrial narratives – could have created a more balanced and deeper system of social dialogue and change. The relentless pursuit of industrial change in terms of *'la reversion industrial'* and the emergent stigmatising of trade unions as political actors configured a system which was more attuned to marketisation even when the state was developing itself significantly (Smith, 1998).<sup>6</sup> Much has been bound up with the nature of the social democratic tradition in Spain – and the crisis of the left overall beyond it – which contributed to a stigmatising of the 'protected worker' and his or her 'protecting organisations' as a discourse limiting broader social engagement (Fernández Rodríguez and Martínez Lucio, 2014). The related problem is that, as Rubery's work has consistently shown, the question of social reproduction, gender and equality remains a major challenge in the way we conceptualise the role of regulation and the way we provide broader narratives of the limitations of contemporary public policy and social partner actors regardless of their rhetoric of 'inclusion'.

However, as we know, history is rarely made in a context of our choosing. The social democratic agenda of the 1980s and 1990s established a model of development and piecemeal accommodation to a neoliberal set of agendas which configured the general imbalances in terms of the state roles which later governments simply formalised. Hence Spain can be seen as a case of competing projects of change where the social dimensions of the state had to be developed at a time when the market and neoliberal policies were in the ascendancy (Alonso, 2007; Martínez Lucio, 1998). Academically, we need to broaden the lens of our analysis in historical and regulatory terms; we need, as Jessop (1982 and 2002) has reminded us, to focus on the broader and sometimes contradictory role of the state itself in terms of different apparatus and different political projects. As my colleague has noted, also in relation to the role of the state in the current context of austerity, we need to be also mindful of believing that the state will be easily reconfigured into a 'neoliberal' or 'withdrawn state' in terms of the economy as the emerging social tensions and contradictions in social and employment terms will draw aspects of the state back into new roles (Rubery, 2011). Perhaps given the role of the coercive and juridical spheres of the state in the current context it will be a more direct form of state role, but it will also be one that will not escape new social agendas so easily as they take the shape of new voices and movements



*in and against* the state. In this respect, a greater degree of fragmentation of the state is likely and a more dualist social context. This in turn forces us to think of the state in broader terms and realise its contradictory features.

## Notes

- 1 An earlier version of this chapter was published in *Sociología de Trabajo* Spring/Primavera 2016 45–67: ‘Incertidumbre, indecisión y neoliberalismo emergente. El papel dual y complejo del Estado Español en las relaciones laborales y de empleo.’ I would like to thank Carlos Fernández Rodríguez for his comments on the earlier version and his support.
- 2 All this was happening at a time when trade unions were having to consolidate their legitimacy and when membership had declined since the peaks reached soon after the death of Franco (Jordana, 1996).
- 3 For a discussion of the impact of neoliberal Anglo-Saxon language and methods in management read Ferner and Quintanilla (1998) and Ferner and colleagues (2001).
- 4 Although much depends on how you define numerical flexibility and what the legal framework for temporary contracting is.
- 5 It is beyond the scope of this chapter to review the importance of the Basque state in its ability to inculcate stronger forms of social engagement and dialogue; greater attention in future is needed in terms of internal comparative analysis within Spain.
- 6 To be able to open a more systematic debate on this key period, the nature of industrial policy in the 1980s and early 1990s would have to be studied carefully and the financial accounts of key companies (public and private) that were closed or ‘restructured’ would have to be scrutinised closely. The extent and role of subsidies and the use of the discourse of Europeanisation being associated with the removal of them would have to be considered. The author’s opinion, as someone who studied labour relations in Spain during this period and who was also present during the equivalent processes in the UK at that time, would be to question the economic assumptions of that period and the critique of state support for what were officially considered to be failing industries.

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