Employment regulation as the warm house for neoliberalism? Comparing higher education in France and the UK

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ABSTRACT
In this article we consider the assumption that representative institutions within the workplace, like such as those existing in France, allow for a sustainable opposition to the employer. The article draws on data from a comparative employment relations project exploring variants of the institutionalisation of labour and the space for alternative forms of engagement with capital. We draw on data and casework in higher education institutions in France and the UK (2017–22). The article elaborates Ross and Savage's (2021) thesis regarding the formation and trajectory of the neoliberal university, while adding to their prognosis reflections on the consequences of marketisation, especially with regard to social partner institutions and the scope and potential of collective forms of action in a neoliberal environment. Of particular note is Ross and Savage's argument that the neoliberal university is characterised by varying patterns of work fragmentation, labour intensification and actor-internalised pressure to conform. Ironically, what seems possible is that the closer regulatory employment relations environment in the French context provides a warmer, less unstable, environment for neoliberal educational practices than is the case in the UK. In a story that also addresses labour domination and opposition, we frame the experience of labour in France as

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inclusionary-subordination/exclusionary-incorporation and in the UK, exclusionary-subordination/inclusionary-incorporation.

KEY WORDS
Employment regulation; France; higher education; incorporation; marketisation; management opposition; neoliberalism; subordination; UK; worker representation

Introduction

This article draws on data from a comparative employment relations project exploring variants of the institutionalisation of labour and the space for alternative forms of engagement with capital. We draw on data and case examples in higher education (HE) institutions in France and the UK between 2017 and 2022. Research in France was conducted between 2018 and 2022 in a private, not-for-profit, business school (*grande école/GE*). In the UK, data were collected at various junctures between 2017 and 2020 at a UK university. The research brings together interviews with activists, lay officials and employees in France and the UK, the local union (UK) and the *Comité Social et Économique* (CSE) in France, and official government documents. In the French case, the institutional response to COVID-19 can be a prism through which to assess the role of the CSE. The authors adopted a number of techniques including participant observation, action research activist and research-subject participation.

Neoliberal imperatives are seemingly boundaryless with respect to the onward march of marketisation and the ensuing employment fragmentation, serving in different ways to restrain and subordinate labour. Our research sought to explore the assumption that formal employment institutions within the workplace, such as those existing in France, allow for greater autonomy and thus potentially more sustainable opposition to the employer than is evident in the UK.

The article elaborates the thesis of Ross and Savage (2021) regarding the formation and trajectory of the neoliberal university, adding to their prognosis reflections on the consequences of marketisation, especially with regard to social partner institutions and the scope and potential of collective forms of action in a neoliberal environment. In particular, attention is given to their view that the neoliberal university is characterised by varying patterns of work fragmentation, labour intensification and actor-internalised pressure to conform.

The article adds to these insights by considering the counter-intuitive notion that collective institutions may be critical to the success of management strategies for marketisation. Thus, while making reference to the UK data, the article focuses for the most part on the French case, and specifically the CSE as a site of labour institutionalisation, which, even when contestatory and, because of its purely consultative (rather than power-sharing) role, may have given the semblance of legitimacy to employer decisions. It is the case that the political character and engagement of union leaders with a left interventionist perspective can make a

significant difference in the situational framing of such institutions. For sure, the political character of a union's participation, not to say demographics of the CSE, is vital when understanding the orientation of the CSE.

We argue that labour subordination in France is framed in terms of what we describe as *inclusionary-subordination/exclusionary-incorporation*, while in the UK subordination is framed by patterns of e*xclusionary-subordination/inclusionary-incorporation*. Ironically, what seems possible is that the closer regulatory employment relations environment in the French context provides a warmer, less unstable, environment for the trajectory of neoliberal educational practices than is the case in the UK.

We begin by distinguishing external *occurrence*s and internal *responses* to global/macro extra-national changes (events). An example of the former is COVID-19, while neoliberalism is an example of the latter (a *driver* of national responses to change). Initially it could be argued that what determines the response to this common external threat is the already-instituted pattern of historically contrived, path-dependent, state, labour, and management relations *sui generis*.

This path-dependent response can be witnessed in the impact of globally turbulent socio-economic relations, which, though common in origin and typical in rationale, nevertheless play in different keys according to their interaction with already existing state, management and labour relationships. Thus, neoliberalism can be seen to play out according to the historical context of the institutions it is influencing, in this instance, the regulation of employment in higher education in France and the UK. We will illustrate this argument by distinguishing between labour management relations driven by a form of inclusionary subordination/exclusionary incorporation in France and, more tentatively, exclusionary subordination/inclusionary incorporation in the UK.

Methodology: participant observers in 'slow comparison' of higher education

Responding to calls in comparative employment relations to compare the sector-level variants of the institutionalisation of labour and space for alternative forms of engagement with capital (Bechter, Brandl & Meardi, 2012) research was conducted in two third-level educational institutions in the UK and France between 2017 and 2022. Research into this aspect of the neoliberalism project in this sector began in 2017 during the pensions dispute in UK universities when the researchers on the project were active in local University College Union (UCU) branches. Research in France was initiated in 2018 (continuing throughout 2022) when the two researchers began working in the private tertiary sector, a *grande école*. Follow-up interviews were carried out in the UK during the COVID-19 pandemic in 2020–21. This allowed for comparative research, adding to the wider project concerned with the impact of neoliberalism on social partnership institutions. Comparing a private sector higher education institution in France with a UK university provides a levelling of status (in both institutions there is a not-for-profit/charitable mission), structure and financing (both institutions rely on student fees). Since it is frequently assumed that formal employment institutions within the workplace offer scope for autonomy and thus,

potentially, opposition to employer strategies, the French context enables consideration of the efficacy of this assumption. Added to this is the importance of neoliberal imperatives that are seemingly boundaryless with respect to the onward march of marketisation and the ensuing employment fragmentation, serving in different ways to restrain and subordinate labour.

The particular set of data drawn on for this article includes formal and informal interviews with defined actors (activists, lay officials and employees in both countries), local unions (UK and France) and CSE (France) material and official government documents. For the research, the authors adopted a number of techniques including participant observation, action research activist and research-subject participation, within the social partner institutions (UCU representatives in the UK, and CSE elected representatives in France). In line with participant observation techniques, the defined number of formal interviews was quite limited in contrast to the number of individuals interviewed informally (see Almond & Connolly, 2020). Selected individuals in France and the UK were consulted, as expert interviewees, on particular aspects of the research, both locally and more broadly, since they expressed interest in critical perspectives on the fate of neoliberalism.

The neoliberal context

Neoliberalism is a protean project with multiple institutional architectures, pathways and modes of intervention such that we can describe variations on post-Fordist growth models, and variations on modes of class regulation, as neoliberal. The shift from Fordist wage-led growth to post-Fordist non-wage-led growth has produced forms and strategies of state intervention that encourage neoliberalisation of industrial relations (Howell, 2021). If it is indeed important to remember the vital role of the state in determining neoliberal trajectories (Peck & Theodore, 2019), we can try to make sense of the ways in which this form of contemporary capitalism plays out in specific sectors.

What drives cross-national variation? National variation in forms and strategies of state intervention reflect differing obstacles and forms of resistance to neoliberalisation. Interestingly, it seems clear that direct legal regulation of the employment relationship deepens and expands as collective self-regulation collapses and labour law substitutes for collective regulation. This is common in weakly coordinated political economies such as the UK. That said, we concur with Peck and Theodore (2019) who argue that 'The more-than-local form(ation) of neoliberalism is therefore also emergent, rather than unilaterally imposed or "top down", and in its own way combinatorial, contradictory, and conjunctural' (Peck & Theodore, 2019:247; see Harvey, 2018, for a broad discussion of neoliberalism and Streeck, 2009, in a different register discussing Germany).

It is in this respect that we pay attention to the particular ways in which neoliberalism 'combines', in the sense understood by Peck and Theodore, with those already existing, social relations, in this case neoliberal trajectories in employment institutions in UK and French higher education. As Peck and Theodore argue, this means that rather than perceiving neoliberalism as a reducible form(ation) driven from

above by capital and state strategy, it makes more sense to understand its heterogeneity, compromises and failures, as viewed from below. It is not a one-dimensional project since it is, rather, defined by the various ways in which labour forms, challenges and reconstitutes capital's strategies of labour subordination. That is to say, a range of extant labour movement strategies in themselves may effectively position labour as a player and creator of neoliberal employee relations paradigms (Stewart & Martínez Lucio, 2011). Peck and Theodore see this as being historically determined and in our chosen field of study, the historical character of labour renders it more or less able to challenge neoliberal, marketisation in its variant forms.

Employment regulation in the neoliberal context of the UK

Howell (2021) argues that the main obstacle to neoliberalisation in the UK has been the decentralised strength of labour at the firm level. State legislative strategy has been to dismantle labour strength with an aggressive countering of labour capacity. This legislative strategy was strengthened in 2016 with the Trade Union Act (and in 2023 with the minimum service strike legislation). Alan Bogg argues that the UK approach takes us beyond neoliberalism:

> *… the new Conservative approach to industrial relations, as manifested in the legislative activity leading to the enactment of the Trade Union Act 2016, is to take labour law 'beyond neoliberalism'. In so doing, it reflects a highly authoritarian strand of Conservative ideology, which, rather than being neoliberal, is anti-liberal in its orientation.*

There has been a transformation in many aspects of UK employment relations over the past 40 years, none more profound than the changed role and influence of trade unions. The declining levels of union membership and density, combined with a huge fall in collective industrial action, are well charted (see Simms & Charlwood, 2010). According to the OECD,[1] trade union density stood at 23.5% in 2019 in the UK compared with 29.8% in 2000, while the percentage of employees covered by collective bargaining was 26.9% in 2019 compared with 36.4% in 2000.

Research[2] shows that 45% of UK organisations have representative arrangements for informing and consulting with employees. Of these, 40% report both union and non-union representation, 39% just non-union representation and 18% cite union representation only. As expected, the public sector is significantly more likely to have representative arrangements with trade unions (30% compared with 12% in the private sector).

The relatively hostile political and business environment and lack of collective regulation to support forms of worker representation in the UK make it a fairly straightforward example of labour exclusion from any form of input in managing the employment relationship.

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1 Accessed December, 6, 2022 from https://stats.oecd.org/index.aspx?DataSetCode=CBC

2 Accessed December, 6, 2022 from https://www.cipd.co.uk/knowledge/fundamentals/relations/employees/collective-employee-voice

Employment regulation in the neoliberal context of French capitalism

Howell (2016) argues in the case of France that because of the weakness of labour within the firm, the creation of firm-level institutions is a path towards (neo) liberalisation. The gradual decentralisation of employment relations over recent decades has encouraged flexibility and expansion of employer discretion by obligating bargaining on some issues, by creating opportunities for derogatory agreements, by ensuring that employers have relatively weak partners on the labour side, and by legitimising deregulation on the part of the state. Over the space of 30 years, state projects of reform 'have catalysed a search for broader organisational flexibilities' (Jenkins, 2000:166). The employment relations system has been heavily regulated by the state, limiting employer discretion. However, the

> *shift from statist regulation to the construction of institutions of bargaining and social dialogue inside the firm was the pathway taken by liberalisation, and the mechanism by which the state was able to partially withdraw from active regulation of the labour market and permit flexibility and expanded employer autonomy and influence in managing the firm. (Howell, 2016:582–83)*

Up until the early 2000s, French industrial relations were characterised by high levels of employment protection and labour rights (Herera, 2009). Extensive state regulation and predominantly industry-level bargaining combined to ensure a high degree of labour market rigidity, limited autonomy on the part of firms in the organisation of work, and the likelihood that industrial conflict would rapidly become politicised. By the end of the first decade of the twenty-first century, a remarkable degree of labour market and workplace flexibility had appeared as firms enjoyed greater autonomy from both state regulation and higher levels of collective bargaining. Contemporaneously, a dense network of firm-level and firm-specific institutions for bargaining, consultation and representation spread widely through French workplaces. The French state played a central role in redefining the very notion of worker representation, in the process bestowing legitimacy on new forms of employee representation (Howell, 2009).

The Macron presidency from 2016 marked an acceleration of reforms to French capitalism, which included the privatisation of the railways and large-scale welfare and fiscal reforms, leading to high-profile strikes and protests during 2018. The 2017 labour reforms included reorganising the different levels of collective bargaining, reducing the resources available for representative institutions, overhauling the occupational health system, reforming the regulation of redundancies and reforming the organisation of certain forms of work, including telework (Contrepois, 2022).

Part of the wide-ranging reforms[3] aimed to 'strengthen social dialogue' by simplifying the structures of employee representation. The reforms required French

3 Accessed December, 9, 2022 from https://www.cse-guide.fr/guide-reforme-code-travail/ordonnances-macron/

companies to set up a new employee representative body, the *Comité Social et Economique*[4] (social and economic committee, CSE) for firms with over 11 employees by December 2019. This new body merged three separate bodies, *délégués du personnel* (employee delegates, DP), *comité d'entreprise* (works council, CE) and the *comité d'hygiène, de santé et des conditions de travail* (health, safety and working conditions committee, CHSCT). Prior to the reforms, each of these bodies had a high degree of autonomy and access to institutional resources, in the form of time off for representative duties, budgets and regular meetings with management.

The CSE's position in the enterprise is singular: it has charge of company welfare and cultural facilities. The law invests it with only consultative powers in regard to employer initiatives concerning the organisation and management of the enterprise. Other than in the case of profit-sharing agreements, it possesses no formal bargaining power. In practice, the dividing line between consultation, which is the prerogative of the works council, and collective bargaining, which is the prerogative of the representative trade unions, is a very fine one. Numerous agreements, formal or otherwise, are concluded between the employer and the CSE, and the courts accord these a certain legal force, at the least as unilateral undertakings on the part of the employer. The institution is a complex one. It is a counterweight to managerial prerogatives, yet also enables their exercise to be rationalised. It is a complement to union power yet is also virtually its competitor.

To try to shed more light on spaces for labour mobilisation, this article addresses three areas that were at the forefront of the offensive by capital in higher education in the period after March 2020.[5] In the following sections, we explore the implications of developing neoliberalism by comparing its trajectory in the HE sector in the UK and France in the context of the COVID-19 crisis. In the first instance however, we want to seek a common understanding of the ways in which higher education in both countries has been driven by the exigencies of neoliberalism.

The neoliberalisation of higher education

This comparison of higher education in France and the UK in the period defined by the COVID-19 crisis is part of a long-term project analysing the ways in which the different regulatory contexts shape, not only the impact of the socio-economic crisis but also the ongoing marketisation of higher education. While there are differences in the extent and form of neoliberal shifts in higher education, we observe some similarities in tendencies because of the international maturity of the market for education.

The first ponderable is what is meant by the neoliberal university. The perspective adopted here is that a neoliberal university is one oriented primarily towards the needs of university employers in a competitive global economy, whether in terms of research and development or the supply of labour markets. Moreover, it

4 Accessed December, 9, 2022 from https://www.cse-guide.fr/guide-reforme-code-travail/ordonnances-macron/#t-1601995246114

5 Schumpeter would have marvelled at the speed with which university managers in the UK and French Grand Ecoles used the COVID-19 health crisis to promote a set of what were in effect destructive policies that would eventually lead to increased marketisation.

will employ and seek to train workers with the technical skills and behavioural attributes desired by employers (Peck, 1996). The maximisation of success within competitive internal and external markets for both ideas and students becomes a governing aim, which displaces the university's other competing purposes, such as fostering democratic capacities and human development, and supplants non-market means of distributing education.

Focusing on research and experiences in the Anglosphere, Ross and Savage (2021) state that the construction of the neoliberal university has entailed a fundamental challenge to the institution's traditional forms and purposes, with the reorganisation of work processes and a redistribution of power. There has been a thorough reorganisation of a variety of processes and relationships, including strengthening university–corporate linkages, transforming students into customers, and the introduction of corporate-oriented management and decision-making structures, among many others (including the use of external consultants in the shaping of strategy). Recognising the variability in the form and pace of neoliberalisation across institutions and national contexts, Ross and Savage (2021:2) argue that,

> *As with their private sector counterparts, universities as employers use labour process reorganisation to concentrate control in the hands of administrators, to reduce workers' autonomy and elicit their active participation in self-disciplinary activity, and to extract greater value from their labour in the delivery of the commodity called 'education'.*

Ross and Savage (2021:14) show how there is a mirroring of labour process reorganisations in other sectors of university work, observing a number of trends: the fragmentation of work; intensification of work for all workers, through both external and internalised pressures; the introduction of new technologies of surveillance and the reduction of responsible autonomy; the personal engagement of workers in processes that intervene in workers' identities to create consenting subjects to the new neoliberal model via new productivity norms and other shifts from external control to internal self-control.

While Ross and Savage focus on the Anglosphere, we observe similar pressures and trends in higher education work across other highly industrialised countries (Raynard, Kodeih & Greenwood, 2021). In France, the pressure for the private *grande écoles* to compete in the international 'business school' market has intensified in recent years (Raynard et al., 2021; regarding responses to marketisation reform in French public universities see, *inter alia*, Renaudie, 2018)

The clear framework provided by Ross and Savage allows consideration of the progress of neoliberal strategies and relations in the sector in both France and the UK. Drawing on their framework, we focus on three specific markers of neoliberal constraint on worker autonomy: first, fragmentation of work; second, intensification of work; and third (our own addition), extensification, driven by new technology. In the case of the sector in France, it is evident that neoliberal perspectives and their practical effects have taken different forms with interestingly variant outcomes in contrast to the UK.

Case studies

UniBritain

The UK's weak regulatory institutional framework provides limited protections for social partners including trade unions. The reliance on government decrees on health and safety protocols at work during COVID-19, *prima facie*, reflected the national employment relations perspective of a voluntarist, marketised form of capitalism. In the absence of any formal code, the UCU had to rely on limited formal, local engagement with management. Social protections, to the extent that they existed, had to be negotiated from scratch and, where these held, they were piecemeal and followed *ad hoc* agreements over how much time lecturers would spend on campus. While management stated that these were negotiated, in practice the UCU generally rubber-stamped instituted procedures covering face-to-face (f2f) teaching and providing unexceptional standards regarding staff wellbeing.

In the first months of the pandemic, the union sought guarantees for staff taking individual decisions over the form of pedagogy delivery but by the end of Spring 2020 f2f teaching ended. Subsequently, technical change with the use of Zoom conferencing technology allowed for mass delivery of teaching. While teachers voiced similar concerns about the impact of distance learning on pedagogy there was no forum for channelling grievances whether about the response to COVID-19 or indeed other, more widely perceived, grievances. The chair of the UCU committee articulated an interesting perspective. That is that strong regulatory institutions allow for the separation, fragmentation and hence compartmentalisation, of various interests which meant that concerns about the impact of management measures to control pedagogy delivery were addressed separately, to the extent that they were addressed at all.

At UniBritain, the fact that there remained no centralising institution to temporalise problems allowed the concerns around COVID-19 to be generalised into a wider set of issues focussed on the structural problems within the HE sector. Arguably, this meant that at UniBritain, the pandemic (and the response to the pandemic) became a touchstone that tied into a wider, pre-existing set of workplace social conflicts. As the lead negotiator at UniBritain put it,

> *It's anarchic. There's no will to negotiate from management. We do on occasion when they want to come to agreement, for example absolute time people spend on the Zoom for lectures and that, but it breaks down. Then you could be doing a lecture say 10–12 Monday till Wednesday and then you try to get lunch and the HOD [head of department] calls us for another pointless meeting about student grades that they now want to check up every week it seems on our so-called performance because they're worried that we might not be meeting standards. Then you say how you can do that since it's not real teaching and the answer is to stonewall you. There's no place you can get down with management and talking all this shit about the effect on peoples' health like you know then it all comes together. People are really f…ed off so everything gets tied together – stress, health and safety, pay and all that.*

The employment relationship at UniBritain began from the position of the exclusion/non-presence of a collective actor except to the extent that it was able, *qua* the UCU, to force its agenda, as a matter of collective voice, onto the organisational agenda of the university. In this instance, negotiation at times of organisational stress was frequently antagonistic. This resulted in a locally defined collective agreement, internally policed, and transient. Moreover, to the extent that management included the UCU in decision-making processes, this was on suffrance since management operated a unitarist ideology. Finally, the union lacked an entry to the organisational decision-making process, which in any event was remitted to the Senate. Negotiation between the UCU and management was consumed by immediate matters around the local employment contract ('policing') and lacked deliberative power over the impact of organisational change, including the role of technology, on pedagogy.

GEFrance

GEFrance provides an instructive case because at first sight, given the protections provided by French labour legislation it should have provided labour with greater extant institutional protections during the health crisis. While legally 'social partner protection' is a fair way to characterise the employment relations workplace environment in France, ironically it may be said to have facilitated a management-centred agenda for change. Shortly after the first lockdown announced by President Macron in early March 2020, the CSE at GEFrance convened an extraordinary meeting with management. Our CSE interviewees and the researchers noted how little management was prepared to allow critical intervention by CSE members beyond a superficial recognition of the right to make statements regarding employee welfare. When one of the CSE representatives argued that the curriculum might be restructured for the duration of the health crisis, taking account of the welfare of administrative staff, cadre and teachers, management presented a technical solution insisting that an innovative teaching delivery platform would be ready within a matter of weeks. One CSE representative argued for suspension of student assessment entirely, suggesting that a weighting procedure should be substituted to allow for student progression until the end of the health crisis. Management argued that the proposed technical solution would allow for an 'easy means whereby students could be safely taught and assessed at distance' (recorded notes). This would be the first technical intervention by management and, while many colleagues objected, in the end the Zoom platform was adopted to facilitate teacher–student engagement at a distance, despite provoking anxiety amongst some students and staff.

During this period, both staff and CSE representatives (in a personal capacity) used various WhatsApp groups to express a range of views about the new online teaching regime including its impact on both student and staff morale, and the physical health of both. Despite the majority being unconvinced of the online protocol, and for pedagogic reasons, faculty continued to use the new delivery process until the government committed to the return to f2f learning in September 2021. Yet, throughout the period, staff training in the use of technology was frequently both impractical and time-consuming such that staff felt unprepared to respond to the various contingencies that arose.

While numerous colleagues felt uneasy as regards the efficacy of the technical delivery process (and this included some who were proudly tech-savvy), there was little immediate sense that there was any alternative. Neither did staff feel there was any forum in which they might voice their misgivings, the presence of the CSE notwithstanding. This was itself instructive, raising issues about the nature and form of the CSE at GEFrance. That said, colleagues did raise fears publicly via a WhatsApp group and in private telephone conversations relating to the substance of courses that were now being delivered in the new medium (interview notes). Their concerns included the impact on student performance and experience and the consequences of what one colleague described sardonically as 'a tool for alienation by television' on teachers health and wellbeing. Nevertheless, when the school curriculum restarted in May 2020, using Zoom as the method of delivery, there was immediate pushback, with a number of colleagues stating during the first on-line departmental meeting that they were both unhappy with what they saw as *force majeure* and that they would return to f2f teaching as soon as possible. That said, echoing Ross and Savage's third concern as highlighted above, the pressure to 'accept' the new dispensation was not entirely externally driven. The neoliberal university regime persisted due to the 'committed orientation' of individual workers who, to paraphrase Ross and Savage, acted as 'consenting subjects' and in a context where status and a 'commitment' to productivity norms driven by neoliberal cannons of performance required that they jump from external control to internal self-control.

Zoom can, in effect, be understood as the driver of an increasingly pressurised environment leading to work intensification: personal training time, at home, beyond working time; pressures included personal adaptation; and the need to develop new skills resulting in a new pattern of job loading to manage the inevitable technical hitches; and new technical protocols for student assessment. While work intensification was critical, work extensification – lengthening the working day – was a direct result of the additional time needed for learning new procedures outside locally accepted working time norms. This adds further insight to Ross and Savage's injunction that the neoliberal university drives work fragmentation. The case of GEFrance in fact presents another aspect of this: fragmentation went hand-in-hand with cross-expertise job loading. In addition to the ongoing process of adding administrative tasks to the role of lecturer, academic staff were now having to become proficient as on-the-job tech experts simply in order to be able to deliver their lectures. Thus, even during this first phase of subordination, the extent to which the introduction of technical change left significant individual questions unanswered was evident, exacerbated by the fact that there was no space in which a collectivise staff response could develop. Because the CSE is an institutionalised consultative body – more recognised for its cultural and social role than its consultative role, coupled with a weak union presence and little ability to frame the situation, the capacity to propose alternatives and contest management directives was weak.

In the next phase, the introduction of a wholly new, hybrid system of working highlighted both the role of technology in extending the subordination characteristic of Ross and Savage's neoliberal university and the importance of a quiescent CSE to the reinforcement of a particular form of embedded neoliberalism.

When the French government declared an end to lockdown, staff at GEFrance, as with most other teachers in the education sector, anticipated a gradual return to normal: f2f teaching. It was assumed that if a student was unable to travel, for example because of disability, teaching might continue in some instances using Zoom. But this was not formally resolved. Then, during the first in-person faculty meeting in September 2021, it was announced that a new technical system known as *Vuteach* was to be introduced. This would allow any student unable to attend courses f2f nevertheless to participate in ersatz classes. [Teaching 'virtually' is not the same as real time-space delivery]. Despite many objections raised by staff, the *Vuteach* equipment began to be rolled out across the campus. Any objections raised on the grounds of the usually much-hyped 'student experience' were dismissed by management as unhelpful to the faculty and the students. The only way to opt out was to present objections in terms of pedagogic ethics. While this could work for a limited number of staff in senior, or subjectively perceived secure positions, the majority felt bullied (*harcèlement*) into going along with this technical-social imposition.

The new technical delivery system, *Vuteach*, was instituted with little immediate collectivised opposition. *Vuteach* merely deepened already existing difficulties experienced by staff. Now, rather than managing in one dimension, via Zoom, staff were expected to deliver f2f and online teaching simultaneously: a system of f2f mixed with distance provision in an ersatz environment for those increasingly fewer students who were unable to attend classes live. The impact on pedagogy was dramatic and deleterious. While several colleagues refused to teach other than f2f, citing pedagogic practice (above), the majority attempted to employ *Vuteach*. As much as the system continued to fail in its objective of providing adequate online distance teaching, it simultaneously continued to fail technically, with staff regularly requiring technical assistance.

Nevertheless, again in the absence of collectivised opposition, the neoliberal, competitive conforming personality came to the fore. It was only after considerable pressure by a limited number of colleagues throughout this time who made public gestures of opposition, and who were relatively job-secure, that the university management agreed to suspend student evaluation as a metric of employee performance in the annual staff appraisal programme.

Though not insignificant, this limited pushback proved to be the extent of actor opposition to the newly imposed technical regime, a regime that management had been anticipating for some time. The objective of the latter, it was subsequently argued by individual management representatives within the CSE, was to expand course coverage making the school's programmes widely available across a new international demographic. Cheapening of labour, tied to financial pressures, could now arguably be seen to have been the original motive for the introduction of this system, with management having been searching for an appropriate opportunity to install it: a system that was quite antithetical to longstanding pedagogic practice. In the absence of union and CSE action, opposition remained individualised and largely propagandistic – hence ineffective.

What might this, possibly atypical, episode tell us about the character of neoliberal subordination in a country where neoliberal orthodoxy is thought to be more

restrained? One conclusion that might be drawn from this experience of technical and social imposition is that while the national labour regulations allowed for collective endeavour to challenge management, at GEFrance such a possibility was discounted. In this regard, the role of the CSE, in this instance, was to act as a conduit serving to institutionalise individual grievances by ignoring them. Thus, while in a typically, unstable institutionalised environment the union can act to collectivise grievances beyond management control, in the case of GEFrance, it became impossible to collectivise those individual expressions of disquiet and discontent described here. It is in this sense that we describe the employment situation from the standpoint of GEFrance as constituting a form of inclusionary subordination while at the same time incorporating employee opposition by excluding the possibility of a collective challenge to management hegemony. At the same time, we are describing a situation, like that described by Peck and Theodore (2019), in which management hegemony is formed not simply by power and control but through acceptance (for the most part) by employees and their representatives of a regime to which they are already committed.

Conclusion

While management at GEFrance took the opportunity presented by the health crisis to introduce a raft of new technical systems, it could be argued that social partners had agreed on this development whatever the arguments one might make to the contrary. Indeed, from an institutional standpoint the claim is not disputable. Our argument is that the CSE's capacity to propose alternatives and contest management directives was limited by its purely consultative role, but at the same time its presence allowed management to gain and claim legitimacy for its decisions. At UniBritain, while the crisis presented management with a similar opportunity to introduce technical change, the process lacked premeditation, foresight and endeavour. Wellbeing measures were piecemeal, pragmatic and inconsistent, thereby adding to the wider discontent of workers not only locally but across the sector.

Thus, if the focus of social mobilisation-accommodation at GEFrance centred on the use of new technical delivery systems, at UniBritain what in the case of the former was a quite specific 'technical' concern (the use of IT to deal with a public health issue) became the touchstone for mobilisation around broad social and institutional conflicts, conflicts that pre-existed, yet were exacerbated by, a particular matter of public health.

It is in this respect that we frame labour subordination in terms of *inclusionary-subordination/exclusionary-incorporation* (in France) and *exclusionary-subordination/inclusionary-incorporation* (in the UK) by assessing the drive to the intensification and extensification of working life and its relation to technical change in both environments.

As a subordinate partner within the CSE, the trade union, and hence the CSE fails as a collective actor to offer potentially distinctive, non-unitarist interests. Opposition can only be 'collective' where it is refracted through the lens of the organisation or company – GEFrance. This represents a form of incorporated collectivism as opposed to class, or occupational, collectivism. It is in this regard that we can describe the situation at GEFrance as one of inclusionary subordination-exclusionary incorporation.

By contrast, UniBritain can be understood as representing a case of exclusionary-subordination/inclusionary-incorporation. Where the union was 'included' it was 'incorporated' into management's rubber-stamping procedures. If unitarist ideologies begin from a standpoint of the exclusion of the collective actor, when conflicts arise, whether due to external events or longstanding internal grievances, or both, the inherent dangers of instability arising from exclusionary subordination become starkly evident. In this respect, this article has highlighted the seemingly paradoxical situation whereby strong institutional state and social partnerships are providing a warmer home for neoliberal marketised higher education than is commonly imagined in a coordinated market economy. Whether neoliberalism really does prefer the latter is being explored in continuing research from across a range of other sectors including health and social care.

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