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After Industrial Citizenship

Market Citizenship or Citizenship at Work?

JUDY FUDGE

This article sketches the rise and fall of industrial citizenship in Canada, and presents two very different models of citizenship that might replace it. It begins by defining the concept of citizenship, and explaining how industrial citizenship has conventionally been understood. It then traces the genealogy of industrial citizenship in Canadian labour law, and how the processes of feminization, deregulation, and globalization have challenged it as a normative ideal and undermined the conditions that have sustained it. The article concludes by considering two scenarios for industrial citizenship in the future: one in which the substance of citizenship is circumscribed by an emphasis on the market, and the other in which citizenship is extended beyond employment to work.

There has been a tremendous resurgence of interest in the subject of citizenship across a wide range of disciplines—from political science and law through sociology and history, to cultural and women's studies (Bosniak, 2002). This interest has been fuelled by the need to develop new paradigms; the citizenship regimes that were institutionalized in liberal democracies after World War II are confronting fundamental economic and political challenges from the forces of globalization and neoliberalism (Hindess, 2002; Jenson and Phillips, 1996: 113).

Citizenship is an amorphous concept, and it tends to be used normatively or aspirationally (McCallum, 2004) rather than analytically. But instead of being a liability this indeterminacy is part of the concept's appeal (Bosniak, 2003). Although citizenship can be imbued with a range

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of meanings and values, it is almost always regarded as positive. At its core, citizenship designates some form of community membership, or inclusion, which encompasses notions of both self-governance and entitlements or rights (Barbalet, 1988). More recently, however, the normative valence of citizenship has come under question since citizenship also entails exclusion (Lister, 2000: 98). It is not necessarily either an expansive or progressive concept (Stasilius, 2002: 365). Feminist scholarship has emphasized the gendered nature of citizenship (Orloff, 1993), and there is a significant body of scholarship demonstrating how citizenship is shaped by race and ethnicity (Baines and Sharma, 2002; Bosniak, 2003; Stasilius and Bakan, 1997, 2005). Citizenship's meaning is the outcome of political struggles (Jenson and Phillips, 1996: 113; Turner, 1993: 12).

Within the labour law literature in Canada, citizenship has a very specific meaning, best captured by Harry Arthurs in his article, "Developing Industrial Citizenship: A Challenge for Canada's Second Century." Arthurs (1967: 786), an important and influential champion of industrial pluralism,¹ declared that "today the Canadian worker lives increasingly in a world of rights and duties created not by his individual contractual act, but by a process of public and private legislation. Members of the industrial community enjoy these rights solely by virtue of their membership in that community. In effect there is emerging a new status—that of 'industrial citizen'—whose juridical attributes may be analogized to citizenship generally."

This conception of industrial citizenship is also found in the industrial relations literature (Crouch, 1998), and it took root in liberal democracies after World War II. Industrial citizenship is a status limiting the commodification of persons in employment (Barbalet, 1988: 26), and it refers "to the acquisition by employees of rights within the employment relationship, rights which go beyond, and are secured by forces external to, the position which employees are able to win purely through, labour market forces" (Crouch, 1998: 152). These rights cover individual rights to certain standards at work and in the terms and conditions of employment and collective rights to representation by autonomous organizations in relations between employees and employers (Barbalet, 1988: 26; Crouch, 1998: 152). Industrial citizenship is inextricably linked to the growth of the welfare state and social rights, and it is an element in the attempt to build a bridge between citizenship and class.

1 The distinctive feature of industrial pluralism is that the terms and conditions and norms of work are established through collective bargaining between autonomous workers organizations and employers. For a discussion of national variants, see Fudge and Tucker (2001: Chapter 11), Collins (2003: 252) and Hepple (2003: 182).

Citizenship has recently become a more prominent theme in discussions of employment (Collins, 2003: 24; McCallum, 1998). The broader economic and political forces that have resulted in a shift in the citizenship regime in Canada have also challenged the basis of the industrial citizenship. Collective bargaining laws and minimum employment standards have been weakened, calling the state's commitment to industrial citizenship into question. But what might replace industrial citizenship is far from certain.

This article sketches the rise and fall of industrial citizenship in Canada, and presents two very different models of citizenship that might replace it. It begins by defining the concept of citizenship, sketching Marshall's influential conception of the elements of citizenship, and explaining how industrial citizenship has conventionally been understood and how it relates to Marshall's typology. Once the conceptual framework is in place, the focus of the article shifts to industrial citizenship in Canada. Industrial citizenship addresses a central contradiction of liberal capitalism, which is that between the inequality of class in the market place and the democratic element of citizenship and equal rights in the political sphere (Hepple, 2003: 188). Historically, in liberal societies citizenship rights stopped at work. However, after World War II industrial citizenship provided workers with rights to self-government via legislation protecting and facilitating freedom of association and collective bargaining as well as limits on commodification through labour standards and social rights.

In tracing the genealogy of industrial citizenship in Canadian labour law, I will emphasize industrial citizenship's exclusions, specifically how it is gendered, and its weak institutionalization. These features of industrial citizenship in Canada are important for understanding how the processes of feminization, deregulation, and globalization have challenged it as a normative ideal and undermined the conditions that have sustained it. After sketching the forces that are eroding industrial citizenship, I conclude by considering two scenarios for industrial citizenship in the future; one in which the substance of citizenship is circumscribed by an emphasis on the market, and the other in which citizenship is extended beyond employment to work.

CITIZENSHIP

Citizenship's central meaning has to do with membership in a community (Barbalet, 1988; Bosniak, 2003: 185), and it is linked to the modern national state (Brodie, 2002: 379). However, its precise meaning is contentious (Bosniak, 2003: 183). Citizenship can refer to a legal status, and "laws regulating the rights and duties of citizenship can constitute formal institutions of basic importance for distributive processes" (Korpi,

1998: ix). Or citizenship can be used more broadly to encompass a “set of practices (juridical, political, economic, and cultural) which define a person as a competent member of a society and which, as a consequence, shape the flow of resources to people and social groups” (Turner, 1993: 2).² Conceiving of citizenship as a set of practices emphasizes its normative aspect; “the idea of citizenship as practice, or a set of practices, is that a particular normative content can or should be ascribed to the indicia of citizenship and claims made on that basis” (Condon and Philipps, 2004: 5). This understanding of citizenship is similar to Jane Jenson’s idea of a citizenship regime. According to Jenson (2000: 232) every citizenship regime, which is the ensemble of institutional arrangements, rules, and understandings that guide and shape concurrent policy decisions and expenditures of states and the nature of the relationship between citizens and states, encodes within it paradigmatic representations of the model citizen.

T. H. Marshall’s influential account of the evolution of modern citizenship has shaped both how citizenship in general is conceived and how industrial citizenship in particular is understood. Marshall identified three distinctive elements of citizenship entitlements: civil, political, and social. According to him,

[t]he civil element is composed of the rights necessary for individual freedom—liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice By the political element I mean the right to participate in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body By the social element I mean the whole range, from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in society (Marshall, 1950, reproduced in Pierson and Castles, 2000: 32).

Civil rights enabled workers to free their labour from the ties of the land (Baines and Sharma, 2002: 79), and provided a basis for the exchange of property and ideas. The extension of the franchise in the nineteenth century Britain marked the era of political citizenship and added democracy to liberalism. Social rights are the distinctive contribution of the Keynesian welfare state, fusing citizenship rights “onto the welfare state form and an ever-widening net of social policies that provided each citizen with a modicum of economic security and opportunities for social mobility”

2. Ruth Lister (2000: 98) refers to formal citizenship, “which denotes the legal status of membership in a state” and substantive citizenship, which “refers to the enjoyment of rights and obligations associated with membership.” She also traces the distinction between citizenship as status and as practice to the two main citizenship traditions: liberal/social rights and civic republican.

(Brodie, 2002: 378). They address “the inherent contradiction in liberal democracies between the promise of citizenship equality and the harsh inequalities generated by capitalist markets” (Brodie, 2002: 380). Social rights contemplate a much more redistributive role for the state and include “a prevailing standard of living and a reduction of the inequalities associated with the market through state provision of some economic goods and services, including education and social services” (Barbalet, 1988: 6). A central component of social rights is the decommodification of labour, the existence of a social safety net, and labour standards that ameliorate the harshness of the market (Epsing-Andersen, 1990).

Industrial citizenship, which can be defined as a status limiting commodification and conferring rights to influence terms of employment (Barbalet, 1988: 26), fits uneasily into Marshall’s threefold classification of the different elements (or stages) of citizenship (Barbalet, 1988: 22; Gersuny, 1994: 211; Rees, 1996: 11-12). In fact, Marshall relegated industrial citizenship to the category of a secondary right outside the core triad of civil, political, and social rights (Marshall, 1950: 26). He described trade union rights and collective bargaining rights as a “supplement to the system of political citizenship” (Marshall, 1965: 104) and a means for “enabling workers to use their civil rights collectively” (Marshall, 1965: 122). He did not consider the rights of workers to be a distinctive form of citizenship, but rather a type of civil right. Moreover, as Ron McCallum (2004) points out, Marshall saw the rights of workers as a “parallel form of industrial citizenship outside governmental institutions,” rather than a true form of citizenship guaranteed by the state.³

But Marshall’s characterization of industrial citizenship as a secondary form of civil rights is contentious. Although collective bargaining requires an acceptance of market exchange, it modifies the units entering the exchange so that associations or combinations of workers rather than individual workers enter into agreements over wages and conditions with employers (Barbalet, 1988: 24; Rees, 1996: 11). Industrial citizenship entails the collective use of civil rights in order to assert claims for social justice, and it cannot be reduced to an individual civil right, although individual civil rights are crucial for the emergence of trade unions (Barbalet, 1988: 23). The rights of industrial citizenship have a distinctive class inflection that fits uneasily into a universalistic conception of civil rights (Barbalet, 1988: 27). Moreover, the characterization of industrial citizenship as a parallel system outside government institutions is limited to a particular

3. Michel Coutu (2004: 75) identifies two specific features of industrial citizenship; its hybrid form (“being at the same time based upon civil rights and oriented towards . . . social citizenship) and its autonomy from state apparatuses.

period in British history (from the end of World War II to the mid-1970s) when collective *laissez faire* reigned supreme and does not characterize the regime of industrial citizenship generally (McCallum, 2004; Rees, 1996: 12). A key feature of industrial citizenship is that workers rights are enforced by the state and do not depend simply upon market power (Barbalet, 1988: 22-27; Crouch, 1998).

Industrial citizenship is related to civil, political, and social rights, but it cannot be reduced to them. Its domain is employment, and it intrudes into the private sphere of the market. This feature alone distinguishes industrial citizenship from Marshall's conception of civil, political, and social citizenship since these forms of citizenship do not impose obligations on private actors or civil society.⁴ Traditionally excluded from conceptions of citizenship are domains of social life characterized as private, such as the market or the household (Bosniak, 2003: 187). Industrial citizenship, like its counterpart economic citizenship (Bosniak, 2003, 189; Condon and Philipps, 2004; Kessler-Harris, 2003; White, 2003),⁵ extends political and social rights into the market. However, as we shall see, industrial citizenship did not extend to women who performed socially necessary, but unpaid, work in the household.

Industrial citizenship also includes *collective* civil and political rights as well as social rights available to individual employees. Crouch's (1998: 152) definition of industrial citizenship captures its key features:

the acquisition by employees of rights within the employment relationship, rights which go beyond, and are secured by forces external to, the position which employees are able to win purely through labour market forces . . . These rights cover such matters as: individual rights to a safe and healthy working environment; to protection from arbitrary management action; to certain entitlements to free time; guarantees of some protection of standard of living in the case of inability to work as a result of loss of employment, poor health or old age; collective rights to representation by autonomous organizations in relations between employees and employers.

This definition allows us to distinguish industrial citizenship from social and political citizenship, as well as to explore relationships between different

4. Janet Siltanen (2002: 408) argues that social rights need to be extended to the market, which is extremely resistant to intervention, if social citizenship is to promote equality and be a progressive concept.

5. Alice Kessler-Harris (2003) uses the term economic citizenship, which refers to the privileges and opportunities necessary for men and women to achieve economic autonomy and independence, to break down the categories of civil and social rights, and to link care and unpaid work. Defining economic citizenship broadly, Condon and Philipps (2004) identify four themes in the literature. The common feature of all conceptions of economic citizenship is its extension to the market.

forms of citizenship. Moreover, the three dimensions of citizenship—subject, substance, and domain—that Linda Bosniak (2003, 184) has identified can be used to identify and to compare different citizenship regimes, and their representations of the model citizen. Who is recognized as a citizen and can claim citizenship status as the subject. Substance encompasses the rights and obligations of citizenship, whereas domain indicates the level at which citizenship is recognized and exercised. In the next section these dimensions will be used to evaluate industrial citizenship in Canada.

INDUSTRIAL CITIZENSHIP IN CANADA

In Canada, in 1946 Pat Conroy, one of the leaders of industrial-based Canadian Congress of Labour, appeared before the Parliamentary Standing Committee on Industrial Relations and declared that “Labour is willing to assume its full measure of responsibility once this country decides that it is entitled to the equal voice that its investment justifies. Labour aspires to full citizenship. Make us industrial citizens, and you may expect from us then to behave accordingly.”⁶ What Conroy was asking for was legislation that would restrict employers’ individual property and contract rights in order to allow workers to insist upon their rights to join free (autonomous) trade unions and to bargain collectively.

The demand for industrial citizenship in Canada was linked to the growing international recognition that labour was not simply a commodity (Novitz, 2003). The International Labour Organization (ILO) adopted this motto in 1944 in the Declaration of Philadelphia, which also acknowledged the ILO’s obligation to further the implementation of programs which would achieve “the effective recognition of the right of collective bargaining, the co-operation of management and labour in the continuous improvement of productive efficiency, and the collaboration of workers and employers in the preparation and application of social and economic measures” (ILO, 1944). Freedom of association and collective bargaining became the distinctive elements of industrial citizenship in the period following World War II (Fudge and Tucker, 2001; Novitz, 2003).

By substituting legal right for industrial might in order for workers to insist that their employers recognize and bargain with their unions and abide by their collective agreements, collective bargaining legislation and

6. This Committee was holding hearings in order to develop collective bargaining legislation for workers in the federal private sector to replace the wartime regulations that provided a mechanism for requiring employers to bargain collectively with trade unions and dispute resolution procedures. These hearings occurred during the large post-war strike wave (Fudge and Tucker, 2001: 305, 292; McInnes, 2002).

grievance arbitration in Canada marked a rupture from the individualism of the common law and the absolutism of property rights. The post-war industrial citizenship regime also saw the imposition of other liberal democratic constraints on freedom of contract and the rights of private property. These constraints took two forms: the enactment of anti-discrimination, or human rights, legislation and the extension of minimum standards of employment to a wider range of workers and conditions. Prior to World War II, employers were free to discriminate against individuals on the basis of ineluctable characteristics such as race since individual freedom from state compulsion was regarded as the paramount liberal value. After the Holocaust, this position was no longer tolerable, and unions took on a leadership role in the lobby for anti-discrimination legislation (Lambertson, 2001; Patrias and Frager, 2001). Moreover, unions endorsed a strategy of incremental legal reform regarding minimum conditions of employment and pushed for restrictions on hours of work, vacations with pay, minimum wages, and improvements to the workers' compensation regimes (Malles, 1972). Thus, in many respects labour was no longer treated simply as a commodity; the regime of industrial citizenship institutionalized decommodified conceptions of justice. Collective bargaining legislation enshrined the democratic commitment to freedom of association, human rights statutes embodied the liberal commitment to fairness and equality, and employment standards acts encapsulated a social understanding of welfare at work (Fudge and Tucker, 2000, 2001).

However, these conceptions of justice did not completely displace freedom of contract and private property. A residual market voluntarism was the foundation upon which industrial citizenship was built. The operative assumption of industrial pluralism, which prevailed in Canada as well as the UK and US, was that bargaining disputes should ultimately be settled by reference to the economic power of the parties themselves (Collins, 2003: 252). The privilege to resort to industrial sanctions, the ultimate measure of bargaining power, continued to determine the contents of collective agreements. Moreover, employers could still call upon a sympathetic judiciary, predisposed to the common law's traditional emphasis on respect for individual property and contract rights, for assistance in labour disputes (Arthurs, 1967; Fudge and Tucker, 2001).

To a large extent, although not as great as in the UK, industrial citizenship in Canada operated in an industrial system that paralleled, rather than depended upon, state norms and enforcement. Harry Arthurs (1967: 813) emphasized this feature of industrial citizenship in Canada:

Just as a special set of rights and duties, indigenous to the industrial relations community has largely developed outside the general law, so too has the enforcement of these rights and duties become the primary concern of

specialized tribunals rather than the regular courts. Labour relations boards administer labour relations acts, while arbitration boards enforce the collective agreement, the private "legislation" created by the parties.

The problem with the regime of industrial citizenship was that the spread of unionization and collective bargaining after World War II was extremely uneven. Workers in the resource, mass-production and transportation industries joined their skilled craft brothers in the ranks of organized labour. Except in Saskatchewan, collective bargaining legislation did not cover public sector employees, thereby excluding increasing numbers of workers from the right to bargain collectively through the union of their choice. Moreover, even within the private sector, in which some form of collective bargaining legislation was very likely to apply, certain industries and workplaces were a better fit than others. Only the strongest trade unions obtained anything that approximated industry-wide bargaining and, even then, in most cases, it was not legally enforceable. Bargaining unit determination policies adopted and administered by labour relations boards reflected and reinforced fragmentation. Plant-by-plant bargaining became the norm. In the secondary sector, which was highly competitive and labour intensive, the legislation tended to function more as an impediment, than an aid, to union representation and collective bargaining. By 1965, only 29.7 per cent of the labour force was unionized (Forrest, 1995; Fudge and Tucker, 2000: 280; Jamieson, 1968; Ursel, 1992).

Employment standards and human rights, the other key components of industrial citizenship, also operated within a fundamentally liberal voluntarist framework that was designed to minimize disruptions with the market. Statutory entitlements for workers did not depart too markedly from market norms and anti-discrimination law did not prevent employers from engaging in practices which, while facially neutral, adversely affected protected groups. The substance of industrial citizenship was designed to reflect the market, and its rights were only weakly institutionalized in Canada. Moreover, its domain was highly fragmented; labour law was primarily a matter of provincial and not federal jurisdiction (Fudge and Tucker, 2000).

Although formally universal and gender neutral, the industrial citizen was a male breadwinner (Forrest, 1995). After World War II the policy consensus was that women's proper place was in the home and not in employment. Outright discrimination and occupational segregation maintained women's subordinate position within the labour market (Fudge and Tucker, 2001; Fudge, 2002). The social vision of the majority of trade unions was limited to securing an occupationally based welfare structure for male workers. Although the Canadian Congress of Labour initially called for maternity benefits and day care to assist women workers, these

demands dropped from their agenda after 1945. Few unions challenged the recomposition of Canada's highly gendered and deeply segmented labour market; in fact, they tended to support it. In general, unionists endorsed the prevailing conservative and patriarchal model of the industrial citizen as male breadwinner, as a counterpart to which women were positioned as economic dependents whose primary, if not exclusive role, was domestic (Finkel, 1995; Forrest, 1995; Fudge and Tucker, 2001; Guard, 1995; Ursel, 1992).

Social citizenship was a safety net in Canada rather than a set of universal rights.⁷ The social welfare net that was established was very porous, since the Canadian economy was dependent upon exports that were vulnerable to changes in the world market. The industrial relations mechanisms, later identified as Fordist since they were best exemplified in the automotive industry, that it implemented were also permeable since the collective bargaining regime was highly fragmented and confined to key economic sectors (Jenson, 1989). Institutionally, the post-war reconversion period confirmed the importance of the massively expanded federal bureaucracy, especially the senior mandarins located in the finance-related departments. Technical, rather than democratic, solutions to political and economic problems would dominate federal policy development. Economically, free enterprisers were dominant and state intervention would be limited to smoothing out disruptions that resulted from Canada's incorporation in the world economy (Fudge and Tucker, 2001; Siltanen, 2002).

Industrial citizenship emphasized the employment relationship as a basis for social entitlement. Simon Deakin (2001) describes how in the UK the "contractualization" of the employment relationship was associated with the gradual spread of social legislation in the fields of workmen's compensation, social insurance and employment protection. A similar process occurred in Canada.⁸ In this context it was "natural" to see employment as the platform for delivering a range of social benefits (Langille, 2002).

The late 1960s and early 1970s were the golden years of industrial citizenship in Canada. The laws and institutions of collective bargaining were extended to workers in the public sector and strengthened for those in the private sector (Fudge and Tucker, 2000). The coverage of human rights codes was expanded to prohibit discrimination on the basis of sex and then marital status, disability, and age, and specialized adjudicative

7. Siltanen (2002: 402) questions whether it is accurate to characterize the Canadian welfare state as providing social rights. She emphasizes its technocratic and liberal nature.

8. Harry Arthurs (1999: 36) described industrial citizenship as "an employment-related system of entitlements which would protect workers against arbitrary treatment by their employer and the vicissitudes of the economy, old age and illness."

tribunals began to develop a distinctive human rights jurisprudence (Fudge and Tucker, 2001; Fudge, 2002). Moreover, Canada's international labour commitments and women's increased labour market participation, especially in the expanding public sector, combined with the demands of the second wave of the women's movement to pressure federal and provincial governments to eradicate the last vestiges of protective and sex-discriminatory laws and to enact legislation designed to remedy the legacy of sex discrimination in employment (Ursel, 1992). Simultaneously, new improved minimum employment standards proliferated and there was a wave of occupational health and safety legislative reform (Fudge and Tucker, 2000). Social rights to medical treatment and pensions were strengthened and expanded.

Industrial citizenship was built upon three pillars: the male breadwinner in a standard employment relationship; a commitment to social rights that ameliorated the most abrasive aspects of class; and a sovereign, and somewhat Keynesian, nation state. However, even at its strongest, industrial citizenship in Canada was limited in scope, strongly dependent upon market power, and weakly institutionalized (Drache and Glasbeek, 1992).

THE EROSION OF INDUSTRIAL CITIZENSHIP

The political and institutional entente that provided a foundation for industrial citizenship began to unravel in the 1980s when the federal government embraced neo-liberalism and signed the US–Canada Free Trade deal and adopted privatization as an alternative to public service. Across Canada, federal and provincial governments targeted public sector workers for restraint. The legislative assault against trade unions in the public sector and the incremental erosion of collective bargaining rights in the private sector both coincided with, and was conducive to, a reinvigoration of market forces. The forces of globalization accelerated the restructuring of the economy and the feminization of labour, which have eroded the friable pillars of industrial citizenship in Canada.

Throughout the 1980s and 1990s, public sector workers saw their collective bargaining rights suspended, faced with unsympathetic legislatures and courts, unions turned to the ILO to lodge complaints over violations of freedom of association (Burkett, Craig and Gallagher, 2003; Fudge and Tucker, 2000; Panitch and Swartz, 2003; Rose, 2004; Swimmer, 2001). Since the 1980s, Canada has earned the dubious achievement of having the highest number of successful complaints brought against it for violating workers' right to freedom of association and collective bargaining of any of the 175 member states of the ILO, and there is no sign that the tide is turning (Panitch and Swartz, 2003: 208; Burkett, Craig and Gallagher,

2003: 251-252). In fact, a spate of recent complaints against the British Columbia government's draconian repeal of collective bargaining and union representation rights in the hospital sector have been successful (Norman, 2004). However, governments across Canada continue simply to ignore their ILO obligations (Fudge, 2004; Panitch and Schwartz, 2003; Norman, 2004).

The erosion of collective bargaining rights in the private sector (Panitch and Swartz, 2003; Rose, 2004; Thompson, Rose and Smith, 2003) both coincided with, and was conducive to, a reinvigoration of market forces. The forces of globalization accelerated the restructuring of the economy, and unionization rates began a slow decline, earnings inequality increased, and working conditions deteriorated (Picot and Heisz, 2000; Heisz, Jackson and Picot, 2002). The number of strikes continues to fall, and real wages only began to recover in the late 1990s (Panitch and Swartz, 2003: 223-224).

At the same time as the institutions of industrial citizenship have been weakened, social rights of citizenship have also been eroded. Bob Hepple (2003: 188) notes that the "British experience in the 1980s showed that social rights can be devalued by political action because industrial citizenship does not match political citizenship." In Canada neo-liberal governing practices "have reversed the redistributive effects of postwar social policies and increased the economic insecurity and isolation of distinct segments of society, especially those with tenuous links to the wage economy" (Brodie, 2002: 378).

Globalization, or deeper economic and political integration across national boundaries, places constraints upon the ability of elected governments to develop and implement policies that are at odds with the central tenets of neoliberalism. The institutional underpinnings of neoliberalism are international free trade, deregulation (especially of labour markets),⁹ and privatization. Combined globalization and neoliberalism challenge both the centrality of the nation state (Arthurs, 1996), which traditionally has been the main author of labour legislation, and labour protection and enhancing workers agency through democratic participation as the major goals of labour legislation (Blackett, 2001: 418).

Deregulation has been the neoliberal response to economic restructuring, which has resulted in an erosion of the standard employment relationship and the male breadwinner employment model. Since the early 1980s, the standard employment relationship has declined, women's labour force participation rate has approached that of men, precarious and non-standard forms of work have spread, and more men are working in forms of

9. De-regulation is more accurately described as re-regulation, a changing of the rules and institutions that constitute a labour market.

employment previously identified with women, although women continue to be over-represented in precarious work (Cooke-Reynolds and Zukewich, 2004; Kallenberg et al., 1998; ILO, 2004: 11). There has been a two-fold feminization of labour, both an increase in women in the labour force and an increase in the kinds of jobs historically associated with women. Precarious employment has historically fallen outside the scope of industrial citizenship and its growth undermines the salience of the model (Fudge and Vosko, 2001, 2003).

Under the combined pressures of globalization, deregulation, and feminization, the subject of industrial citizenship has been narrowed, its substance has been dismantled, and its domain has been weakened. A discourse of individualism and competition that emphasizes the legal relations of contract and property vies with the traditional discourse of industrial citizenship for hegemony. Workers' collective action is increasingly portrayed as the self-serving and coercive privilege of big labour and, materially, it has less purchase in a world in which capital is less fettered by the political strictures of the nation state. While there has been no direct and sustained legal assault on private sector workers' freedom to associate and right to bargain collectively, the terrain in which these rights operate has narrowed. As an increasing proportion of the labour force falls outside of the scope of industrial citizenship, political support for workers' collective rights is undermined and the balance is likely to shift even further towards individualism.

The project of globalization and the accompanying logic of the race to the bottom have also made suspect legally enforceable minimum standards that constrain the exploitation of labour (Fudge, 2001; Vallée and Charest, 2001). Conservative and social democratic governments warn Canadian workers that legal standards that provide a living wage, a modicum of dignity at work, and personal time outside of employment will price them out of the global labour market. At the same time, deep cutbacks to the public sector have undermined the capacity of the state to enforce employment legislation and the benefits of voluntary, co-operative bipartite arrangements are invoked to legitimate the devolution of standard setting and enforcement to the market parties (Fudge, 2001).

Globalization puts industrial citizenship under pressure, although it does not directly undermine it (Crouch, 1998: 163). In Canada, this pressure has combined with the erosion of social rights such as employment insurance that supported collective bargaining, and rights and standards that were only weakly institutionalized. Collective bargaining rights are not considered by the Supreme Court of Canada to be a fundamental right protected by the Charter of Rights' freedom of association, and there are no legal restrictions on the freedom of governments to deprive large groups of workers from

minimum standards legislation (Fudge, 2000, 2004). Moreover, because industrial citizenship is not seen as engaging fundamental civil or political rights it is very vulnerable to legislative retrenchment.

MODEL CITIZENS

The slow decline of the traditional conception of industrial citizenship—with the male breadwinner as subject—appears to be inevitable (Fudge and Vosko, 2001).¹⁰ The pillars upon which it was initially established were weak and the ground underneath them has shifted. But what will replace the traditional conception of industrial citizenship is an open question. Despite global pressures towards greater convergence in deregulating labour markets and labour legislation that emphasizes competitiveness and flexibility, national regimes of labour regulation and legislation have been remarkably resilient. Employment and labour laws and institutions are path dependent; they are historically determined and tend to follow specific institutional patterns (Boyer and Drache, 1996; Kilpatrick, 2003).¹¹

Bearing this in mind, I shall sketch two scenarios for a reconfigured industrial citizenship in the future. These scenarios are neither blueprints for, nor maps of, citizenship regimes, but rather models designed to capture different ends of the policy spectrum, and not the range of different options.¹² They are designed to exemplify opposing approaches to regulating the labour market, and roughly correspond to liberal and social democratic approaches to labour law and industrial citizenship (Hepple, 2003). The first model is market citizenship and the second is citizenship at work.

Market Citizenship

Under the market citizenship scenario there is whole new set of assumptions about the role of government and the rights of its citizens—government

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10. The claim being made here is not that the traditional employment relationship will die off; there will still be workers who fit that model. Rather, it is that this model will no longer be the normative basis for determining social entitlement.
 11. Eric Tucker (2003) has shown that there are diverging trends in citizenship regimes in the area of occupational health and safety across different jurisdictions in Canada.
 12. Collins (2003) has been characterized (McCallum, 2004) as advocating a third way approach to industrial citizenship, which would lie in the mid-range between the two points I shall sketch. Although McCallum (2004) emphasizes the extent to which Collins stresses the obligation to work as an element of citizenship, Collins also identifies social rights—such as health and safety and the right to organize (and within industrial pluralist systems the right to strike) as elements of citizenship at work (Collins, 2003: Part IV).

responsibility for the social welfare of its citizens is being replaced with a new political and social order in which governments are only responsible for helping citizens to help themselves (Purvis and Hunt, 1999).¹³ The social citizen is giving way to a new market citizen “who recognizes the limits and liabilities of state provision and embraces her obligation to become more self-reliant” (Brodie, 1996: 131). This new market citizen is one who recognizes and takes responsibility for her own risks and that of her family.

In this conception, the entitlements of citizenship have been narrowed and its responsibilities have been widened. Social rights that counteract the commodification of labour are severely curtailed and the obligation to be employed has deepened and expanded. Individual citizens are responsible for their own risks. The rights of industrial citizenship are diminishing and residual. Employment is increasingly analogized to a commercial contract and collective bargaining is not considered to be a fundamental right. Individual contracting is the preferred mechanism for establishing terms and conditions of employment and access to free trade unions and collective bargaining is more apparent than real. Although a minimum floor of employment rights targeted for individual workers continues to be provided, the standards themselves are either subject to individual negotiation or enforcement has been privatized (Fudge, 2001). Increasingly there is an obligation either to work or to engage in training as a condition for obtaining entitlement to social assistance, although the paradox is that work for welfare is excluded from labour protection (Bashevkin, 2002).¹⁴

Although universal in scope, this conception of citizenship is highly gendered (Condon and Philipps, 2004). Social reproduction, especially caring for children, is considered to be a private and individual responsibility. The burden of performing this work will fall disproportionately on women; however, it will not be borne equally by all women. Globalization, deregulation, and neoliberalism have increased polarization among women in the labour force on the basis of skills and education (Fudge and Cossman, 2002: 25-26). At the same time, “the very conditions of social reproduction are being reconfigured by neoliberal dynamics to create polarization among women, the ‘mistress and the maid’ phenomenon” (Bakker, 2003: 80, quoting Young, 2001). The increasing use of migrant domestic workers to provide care for Canadian households is a profound illustration of the

13. Stasiulis and Bakan (2005: 18-22) discuss the main features of neo-liberal citizenship, which is similar to what I term market citizenship.

14. See, for example, the exclusion of Ontario Works participants (which is a form of workfare) from the Employment Standards Act, S.O. 2000, C. 41, s. 3(5)3.

stratification of social reproduction, and how it plays out in a racialized context (Stasilius and Bakan, 1997).

This citizenship regime is marked by an expansion of the domain of the market and contraction in social rights. It is “stripped of its notions of social justice and an active state” (Jenson, 1997: 637) and, instead, is based on “a wholly privatized and marketized notion of rights” (Mooers, 1998: 9).

Citizenship at Work

At the other extreme, the citizenship at work scenario extends the entitlements of citizenship beyond employment and recognizes a wider range of work—socially necessary labour, including caring for family members—as a contribution to the community.¹⁵ Originating in a report by a group of experts appointed by the European Commission, this prototype replaces the paradigm of employment with a broad conception of work that covers “people from the cradle to grave... in both periods of inactivity proper and periods of training, employment, self-employment and work outside the labour market,” where “work outside the labour market” includes training at one’s own initiative, voluntary work and care for other people (Supiot, 2001: 55). Work would be the basis for labour force membership, which would be the basis of entitlement. However, work, unlike the broader term activity, always has some legal connotation, in that it “involves an obligation, voluntarily assumed or legally imposed, under onerous or voluntary terms, subject to status or contract” (Supiot, 2001: 54).¹⁶

The European experts adopt the term “professional status” to capture this broader conception of work:

the rights corresponding to wage-earning work (employment), common rights affecting professional activity (gender equality, health and safety, etc.) and rights with regard to non-professional work (care for others, volunteer work, self-imposed training, etc.) together constitute the three circle of rights associated with the notion of professional status (Supiot et al., 1999: 627).

Moreover, they go on to state that “universal social rights, guaranteed irrespective of work (health care, minimum welfare, etc.) fall outside this notion and should therefore be protected by specific legislation” (Supiot et al., 1999: 627).

15. Several prominent researchers in industrial relations, labour law and labour policy have urged that labour and social protection be extended beyond employment to work, which includes unpaid care labour (Giles, 2000; Hepple, 2003; Standing, 1999). Ulrich Muckenberger (1996), by contrast, calls for “enterprise citizenship,” which would extend protection beyond employment but not to unpaid care work.

16. For a discussion of this form of citizenship, see Vallée (2005: 23-25).

This broad conception of professional status also goes hand and hand with the expansion of social rights, or what the report by the committee of European experts called “social drawing rights.” These rights are essentially “a new type of social right related to work in general (work in the family sphere, training work, voluntary work, self-employment, working the public interest, etc.)” based on a prior contribution to work, but “brought into effect by the free decision of the individual and *not as a result of risk*” (Supiot, 2001: 56, italics added). They supplement the traditional social rights, and are accompanied by robust collective bargaining rights (Supiot, 2001: 221, 223). Women’s contribution is recognized in a robust conception of social citizenship. The suite of social rights the state would guarantee would include

non-discrimination, minimum wage, collective rights, etc.; guarantees of equal access to ongoing, high quality public services (not conceived merely in terms of minimum universal standards); and freedom of profession, understood to be a specific freedom that involves not employment but work, and the concomitant right to information (Supiot et al., 1999: 633).

CONCLUSION

The contrast between the subjects and substance of citizenship in these two regimes is stark; they are meant to highlight the spectrum of citizenship regimes. They also differ in terms of domain. Market citizenship is premised upon the state’s domain shrinking while the market’s expands. By contrast, citizenship at work not only depends upon a strong role for the state, it was also designed to be institutionalized at the level of the European union as part of a broader attempt to ensure that economic integration and the common market does not lead to downward harmonization of social standards (Supiot et al., 1999: 633).

Ultimately, “competing ideas of citizenship offer differing views about the mechanisms governing the relationship between membership of a political community, participation in the decisions governing the community, and access to public goods and resources” (Crouch, Eder and Tambini, 2001: 4). The models sketched above simply illustrate competing visions of one aspect of citizenship—the entitlements that come from engaging in what is regarded as socially valuable labour. Actual citizenship regimes, although they may be inspired by different ideals or models, are the outcome of a number of forces, and the weight of history helps to shape their trajectory. But one thing that is certain is that any notion of citizenship in the future must respond to the challenges posed by globalization, liberalization, and feminization.

■ REFERENCES

- ARTHURS, Harry. 1967. "Developing Industrial Citizenship: A Challenge for Canada's Second Century." *Canadian Bar Review*, XLV, 786–830.
- ARTHURS, Harry. 1996. "Labour Law without the State." *University of Toronto Law Journal*, 46, 1.
- ARTHURS, Harry. 1999. "The New Economy and the New Legality: Industrial Citizenship and the Future of Labour Arbitration." *Canadian Labour and Employment Law Journal*, 7 (1), 46–63.
- BAINES, Donna, and Nandita SHARMA. 2002. "Migrant Workers as Non-Citizens: The Case Against Citizenship as a Social Policy Concept." *Studies in Political Economy*, 69 (Autumn), 75–108.
- BAKKER, Isabella. 2003. "Neo-liberal Governance and the Reprivatization of Social Reproduction: Social Provisioning and Shifting Gender Orders." *Power, Production and Social Reproduction*. I. Bakker and S. Gill, eds. Houndmills, Basingstoke: Palgrave MacMillan, 66–82.
- BARBALET, J. M. 1988. *Citizenship Rights, Struggle and Class Inequality*. Minneapolis: University Minnesota Press.
- BASHEVKIN, Sylvia. 2002. *Welfare Hot Buttons: Women, Work, and Social Policy Reform*. Toronto: University of Toronto Press.
- BLACKETT, Adelle. 2001. "Global Governance, Legal Pluralism and the Decentred State: A Labor Law Critique of Codes of Conduct." *Indiana Journal of Global Legal Studies*, 8 (Fall), 401–447.
- BOSNIAK, Linda. 2002. "Critical Reflections on 'Citizenship' as a Progressive Aspiration." *Labour Law in an Era of Globalization: Transformative Practices and Possibilities*. J. Conaghan, M. Fischl, and K. Klare, eds. Oxford: Oxford University Press, 339–349.
- BOSNIAK, Linda. 2003. "Citizenship." *The Oxford Handbook of Legal Studies*. P. Crane and M. Tushnet, eds. Oxford: Oxford University Press, 183–201.
- BOYER, Robert, and Daniel DRACHE. 1996. "Introduction." *States Against Markets: The Limits of Globalization*. R. Boyer and D. Drache, eds. London: Routledge.
- BRODIE, Janine. 1996. "Restructuring and the New Citizenship." *Rethinking Restructuring: Gender and Change in Canada*. I. Bakker, ed. Toronto: University of Toronto Press, 126–140.
- BRODIE, Janine. 2002. "Citizenship and Solidarity: Reflections on the Canadian Way." *Citizenship Studies*, 6 (4), 377–394.
- BURKETT, Brian, John D. R. CRAIG and Jodi GALLAGHER. 2003. "Canada and the ILO: Freedom of Association since 1982." *Canadian Journal of Labour and Employment Law*, 10 (2), 231–268.
- COLLINS, Hugh. 2003. *Employment Law*. London: Oxford University Press.
- CONDON, Mary, and Lisa PHILIPPS. 2004. *Connecting Economy, Gender and Citizenship*. Ottawa: Law Commission of Canada.
- COOKE-REYNOLDS, Melissa, and Nancy ZUKEWICH. 2004. "The Feminization of Work." *Canadian Social Trends*. Ottawa: Statistics Canada, Catalogue No. 11–008, 24–29.

- COUTU, Michel. 2004. "Industrial Citizenship, Human Rights and the Transformation of Labour Law: A Critical Assessment of Harry Arthurs' Legalization Thesis." *Canadian Journal of Law and Society*, 19, 73–92.
- CROUCH, Colin. 1998. "The Globalized Economy: An End to the Age of Industrial Citizenship?" *Advanced Theory in Labor Law and Industrial Relations in a Global Context*. T. Wilthagen, ed. Amsterdam: North-Holland.
- CROUCH, Klaus Eder, and Damian TAMBINI. 2001. "Introduction: The Dilemmas of Citizenship." *Citizenship, Markets, and the State*. C. Crouch, K. Eder, and D. Tambini, eds. Oxford: Oxford University Press, 1–20.
- DEAKIN, Simon. 2001. "The Contract of Employment: A Study in Legal Evolution." *Historical Studies in Industrial Relations*, 11, 1–36.
- DRACHE, Daniel, and Harry GLASBEEK. 1992. *The Changing Workplace: Reshaping Canada's Industrial Relations System*. Toronto: Lorimer.
- ESPING ANDERSEN, Gosta. 1990. *The Three Worlds of Welfare Capitalism*. Princeton: Princeton University Press.
- FINKEL, Alvin. 1995. "Trade Unions and the Welfare State in Canada, 1945–90." *Labour Gains, Labor Pains: 50 Years after PC 1003*. C. Gonick, P. Phillips, and J. Vorst, eds. Halifax: Fernwood, 59–78.
- FORREST, Anne. 1995. "Securing the Male Breadwinner: A Feminist Interpretation of PC 1003." *Labour Gains, Labour Pains: Fifty Years of PC 1003*. C. Gonick, P. Phillips and J. Vorst, eds. Halifax: Fernwood, 139–162.
- FUDGE, Judy. 2000. "Lessons from Canada: The Impact of the Charter and Freedoms in Labour and Employment Law." *Human Rights at Work*. K. Ewing, ed. London: Institute for Employment Rights, 175–201.
- FUDGE, Judy. 2001. "Flexibility and Feminization: The New Ontario Employment Standards Act." *Journal of Law and Social Policy*, 16, 1–22.
- FUDGE, Judy. 2002. "From Segregation to Privatization: Equality, Law and Women Public Servants, 1908–2000." *Privatization, Law and the Challenge to Feminism*. B. Cossman and J. Fudge, eds. Toronto: University of Toronto Press, 86–127.
- FUDGE, Judy. 2004. "Labour is Not a Commodity: The Supreme Court of Canada and the Freedom of Association." *Saskatchewan Law Review*, 67 (2), 25–52.
- FUDGE, Judy, and Eric TUCKER. 2000. "Pluralism or Fragmentation? The Twentieth Century Employment Law Regime in Canada." *Labour/Le Travail*, 46, 251–306.
- FUDGE, Judy, and Eric TUCKER. 2001. *Labour Before the Law: The Regulation of Workers Collective Action, 1900–48*. Don Mills, Ont.: Oxford University Press.
- FUDGE, Judy, and Leah VOSKO. 2001. "Gender, Segmentation and the Standard Employment Relationship in Canadian Labour Law and Policy." *Economic and Industrial Democracy*, 22 (2), 271–310.
- FUDGE, Judy, and Brenda COSSMAN. 2002. "Introduction: Privatization, Law, and the Challenge to Feminism." *Privatization, Law, and the Challenge to*

- Feminism*. B. Cossman and J. Fudge, eds. Toronto: University of Toronto Press, 1–37.
- FUDGE, Judy, and Leah VOSKO. 2003. “Gendered Paradoxes and the Rise of Contingent Work: Towards a Transformative Feminist Political Economy of the Labour Market.” *Changing Canada: Political Economy as Transformation*. W. Clement and L. Vosko, eds. Montreal and Kingston: McGill–Queen’s University Press, 183–209.
- GERSUNY, Carl. 1994. “Industrial Rights: A Neglected Facet of Citizenship Theory.” *Economic and Industrial Democracy*, 15, 211–226.
- GILES, Anthony. 2000. “Industrial Relations at the Millennium: Beyond Employment?” *Labour/Le Travail*, 46 (Fall), 37–67.
- GUARD, Julie. 1995. “Womanly Innocence and Many Self-Respect: Gendered Challenges to Labour’s Post-War Compromise.” *Labour Gains, Labor Pains: 50 Years after PC 1003*. C. Gonick, P. Phillips, and J. Vorst, eds. Halifax: Fernwood, 119–137.
- HEISZ, Andrew, Andrew JACKSON, and Garnett PICOT. 2002. *Winners and Losers in the Labour Market of the 1990*. Analytic Studies Branch Research Papers Series, No. 184, Cat. No. 11F0019ME. Ottawa: Statistics Canada.
- HEPPLE, Bob. 2003. “Four Approaches to the Modernisation of Individual Employment Rights.” *Changing Industrial Relations and Modernisation of Labour Law: Liber Amicorum in Honour of Professor Marco Biagi*. R. Blanpain and M. Weiss, eds. The Hague: Kluwer, 181–190.
- HINDESS, Barry. 2002. “Neo-liberal Citizenship.” *Citizenship Studies*, 6 (2), 127.
- ILO. 1944. *Declaration Concerning the Aims and Purposes of the International Labour Organization*. 26th Session, Annex I(a) [1944 Declaration of Philadelphia]. Online: <http://www.ilo.org/public/english/about/iloconst.htm>.
- ILO. 2004. *Global Employment Trends for Women*. Geneva: ILO.
- JAMIESON, Stuart. 1968. *Times of Trouble: Labour Unrest and Industrial Conflict in Canada, 1900–1966*. Study prepared for the Task Force on Industrial Relations. Ottawa: Privy Council Office.
- JENSON, Jane. 1989. “‘Different’ but not ‘Exceptional’: Permeable Fordism in Canada.” *Canadian Review of Sociology and Anthropology*, 26 (1), 69–94.
- JENSON, Jane. 1997. “Fated to Live in Interesting Times: Canada’s Changing Citizenship Regimes.” *Canadian Journal of Political Science*, XXX (4), 627–644.
- JENSON, Jane. 2000. “Restructuring Citizenship Regimes: The French and Canadian Women’s Movements in the 1990s.” *Globalizing Institutions: Case Studies in Regulation and Innovation*. J. Jenson and B. de Sousa Santos, eds. Aldershot: Ashgate, 231–252.
- JENSON, Jane, and Susan D. PHILLIPS. 1996. “Regime Shift: New Citizenship Practices in Canada.” *International Journal of Canadian Studies*, 14 (Fall), 11–36.

- KALLENBERG, Aren L., Edith RASELL, Naomi CASSIER, Barbara F. RESKIN, Ken HUDSON, David WEBSTER, Eileen APPELBAUM, and Roberta M. SPALTER-ROTH. 1998. "Nonstandard Work, Substandard Jobs: Flexible Work Arrangements in the United States." *The Changing Nature of Work*. F. Ackerman, N. Goodwin, L. Dougherty, and K. Gallagher., eds. Washington, D.C.: Island Press.
- KESSLER-HARRIS, Alice. 2003. "In Pursuit of Economic Citizenship." *Social Politics*, 10 (2), 157–175.
- KILPATRICK, Claire. 2003. "Has New Labour Reconfigured Employment Legislation?" *Industrial Law Journal*, 32 (3), 135–163.
- KORPI, Walter. 1998. "The Iceberg of Power below the Surface: A Preface to Power Resources Theory." *Power Resources Theory: A Critical Approach*. J. O'Connor and G. Olsen, eds. Toronto: University of Toronto Press, vii–xiv.
- LAMBERTSON, Ross. 2001. "The Dresden Story: Racism, Human Rights, and the Jewish Labour Committee of Canada." *Labour/Le Travail*, 42 (Spring), 43–82.
- LANGILLE, Brian. 2002. "Labour Policy in Canada: New Platform, New Paradigm." *Canadian Public Policy*, 28 (1), 133–142.
- LISTER, Ruth. 2000. "Inclusion/Exclusion: The Janus Face of Citizenship." *Towards a Gendered Political Economy*. J. Cook, J. Roberts, and G. Waylen, eds. Houndsmills, Basingstoke: MacMillan, 98–120.
- MALLES, Paul. 1976. *Canadian Labour Standards in Law: Agreement and Practice*. Ottawa: Economic Council of Canada.
- MARSHALL, T. H. [1950] 1994. "Citizenship and Social Class." *Citizenship: Critical Concepts Volume II*. B. Turner and P. Hamilton, eds. London: Routledge.
- MARSHALL, T. H. 1965. *Class, Citizenship and Social Development: Essays by T H Marshall*. Garden City: Doubleday.
- MCCALLUM, Ron. 1998. "Collective Labour Law, Citizenship and the Future." *Melbourne University Law Review*, 24, 41.
- MCCALLUM, Ron. 2004. "Citizenship Theory and Labour Law." Paper presented to the International Colloquium on Citizenship at Work: Thinking the Workplace of the Future, Université Laval, 21–23 June 2004.
- MCINNES, Peter. 2002. *Harnessing Labour Confrontation: Shaping the Postwar Settlement in Canada, 1943–50*. Toronto: University of Toronto Press.
- MOOERS, Colin. 1998. "And We Still Resist? Globalization, Citizenship and Class Formation." *Social Studies Bulletin*, 53.
- MUCKENBERGER, Ulrich. 1996. "Towards a New Definition of the Employment Relationship." *International Labour Review*, 135 (6), 683–695.
- NORMAN, Ken. 2004. "ILO Freedom of Association Principles as Basic Canadian Human Rights: Promises to Keep." *Saskatchewan Law Review*, 67 (2), 591–608.
- NOVITZ, Tonia. 2003. *International and European Protection of the Right to Strike: Comparative Study of Standards Set by the International Labour*

- Organization, the Council of Europe and the European Union*. Oxford: Oxford University Press.
- ORLOFF, Ann Shola. 1993. "Gender and the Social Rights of Citizenship: The Comparative Analysis of Gender Relations." *American Sociological Review*, 58 (3), 303–328.
- PANITCH, Leo, and Donald SWARTZ. 2003. *From Consent to Coercion: The Assault on Trade Union Freedoms*. 3rd ed. Aurora, Ont.: Garamond Press.
- PATRIAS, Carmela, and Ruth FRAGER. 2001. "'This is Our Country, These are Our Rights': Minorities and the Origins of Ontario's Human Rights Campaigns." *Canadian Historical Review*, Vol. 82, No. 1, 1–35.
- PICOT, Garnett, and Andrew HEISZ. 2000. *The Performance of the 1990s Canadian Labour Markets*. Analytic Studies Branch Research Papers Series, No. 149. Cat. No. 11F0019ME. Ottawa: Statistics Canada.
- PIERSON, Christopher, and Francis G. CASTLES. 2000. *The Welfare State*. Cambridge: Polity Press.
- PURVIS, Trevor, and Alan HUNT. 1999. "Identity versus Citizenship: Transformation in the Discourses and Practices of Citizenship." *Social and Legal Studies*, 8 (4), 457–482.
- REES, Anthony. 1996. "T. H. Marshall and the Progress of Citizenship." *Citizenship Today*. M. Bulmer and A. Rees, eds. London: UCL Press, 1–22.
- ROSE, Joseph B. 2004. "Public Sector Bargaining: From Retrenchment to Consolidation." *Relations industrielles/Industrial Relations*, 59 (2), 271–293.
- SILTANEN, Janet. 2002. "Paradise Paved? Reflections on the Fate of Social Citizenship in Canada." *Citizenship Studies*, 6 (4), 395–414.
- STANDING, Guy. 1999. *Global Labour Flexibility: Seeking Distributive Justice*. Houndsmill, Basingstoke: MacMillan Press.
- STASILIUS, Daiva. 2002. "Introduction: Reconfiguring Canadian Citizenship." *Citizenship Studies*, 6 (4), 365–375.
- STASIULIS, Daiva, and Abigail BAKAN. 1997. "Negotiating Citizenship: The Case of Foreign Domestic Workers in Canada." *Feminist Review*, 57 (Autumn), 112–139.
- STASIULIS, Daiva, and Abigail BAKAN. 2005. *Negotiating Citizenship: Migrant Women in Canada and the Global System*. Toronto: University of Toronto Press.
- SUPIOT, Alain. 2001. *Beyond Employment: Changes in Work and the Future of Labour Law in Europe*. Oxford: Oxford University Press.
- SUPIOT, Alain, et al. 1999. "A European Perspective in the Transformation of Work and the Future of Labor Law." *Comparative Labor Law and Policy Journal*, 20 (6), 621–633.
- SWIMMER, Gene, ed. 2001. *Public Sector Labour Relations in an Era of Restraint and Restructuring*. Don Mills, Ont.: Oxford University Press.
- SWIMMER, Gene, and Mark THOMPSON, eds. 1996. *Public Sector Collective Bargaining in Canada*. Kingston, Ont.: IRC Press.

- THOMPSON, Mark, Joseph B. ROSE, and Anthony E. SMITH, eds. 2003. *Beyond the National Divide: Regional Dimensions of Industrial Relations*. Kingston and Montreal: McGill–Queen’s University Press.
- TUCKER, Eric. 2003. “Diverging Trends in Worker Health and Safety Protection and Participation in Canada, 1985–2000.” *Relations industrielles/Industrial Relations*, 58 (3), 395–426.
- TURNER, Bryan. 1993. “Contemporary Problems in the Theory of Citizenship.” *Citizenship and Social Theory*. B. Turner, ed. London: Sage, 1–18.
- URSEL, Jane. 1992. *Private Lives, Public Policy: 100 Years of State Intervention in the Family*. Toronto: Women’s Press.
- VALLÉE, Guylaine. 2005. *Towards Enhancing the Employment Conditions of Vulnerable Workers: A Public Policy Perspective*. Ottawa: Canadian Policy Research Networks.
- VALLÉE, Guylaine, and Jean CHAREST. 2001. “Globalization and the Transformation of State Regulation of Labour: The Case of Recent Amendments to the Quebec Collective Agreement Decrees Act.” *International Journal of Comparative Labour Law and Industrial Relations*, 17 (1), 79–91.
- WHITE, Stuart. 2003. *The Civic Minimum: On the Rights and Obligations of Economic Citizenship*. Oxford: Oxford University Press.
- YOUNG, Brigitte. 2001. “The ‘Mistress’ and the ‘Maid’ in the Globalized Economy.” *Working Classes: Global Realities Socialist Register 2001*. L. Panitch and C. Leys, eds. London: Merlin Press, 264–276.

RÉSUMÉ

Après la citoyenneté industrielle : citoyenneté du marché ou citoyenneté au travail ?

Cet essai retrace la montée et le déclin de la citoyenneté industrielle au Canada et il décrit deux modèles différents de citoyenneté susceptibles de la remplacer. En établissant la généalogie de la citoyenneté industrielle dans le monde du travail canadien, il souligne les exclusions afférentes à la citoyenneté industrielle, plus particulièrement sa faible institutionnalisation et la manière dont elle est sexuée. En débutant par une exploration de la notion de citoyenneté, l’essai trace les contours de la conception de Marshall (1950) des éléments de la citoyenneté, conception qui, par ailleurs, bénéficie d’une large audience. Le compte rendu de Marshall sur l’évolution de la citoyenneté moderne décrit la façon dont en général elle est conçue et, en particulier, la manière dont elle est comprise. La citoyenneté industrielle aborde une contradiction au cœur du capitalisme libéral, celle de l’inégalité des classes sociales au sein du marché et du caractère démocratique de la citoyenneté, de l’égalité des droits dans la sphère politique.

La citoyenneté industrielle est un état qui vient limiter l'utilisation des personnes en emploi comme si elles étaient des marchandises : elle se présente sous la forme de l'acquisition de droits chez les salariés dans leur relation d'emploi, qui surviennent par le jeu de forces extérieures et qui vont au-delà d'un statut auquel les salariés seraient en mesure d'accéder seulement par le jeu du marché du travail. Ces droits s'étendent des droits individuels à certaines normes du travail et à des droits collectifs de représentation par des institutions autonomes au sein des relations employeurs-employés. Historiquement, les droits de citoyenneté dans les sociétés libérales s'arrêtaient au travail. Après la Seconde Guerre mondiale, la citoyenneté industrielle accorda aux travailleurs des droits de représentation par le biais de lois protégeant et facilitant la liberté d'association, la négociation collective, et imposant des limites à la liberté de marchandage par le truchement des normes du travail et des droits sociaux. La citoyenneté industrielle est intimement liée au développement de l'État-providence et des droits sociaux. De plus, elle se présente comme un élément important dans la tentative d'établir un pont entre la citoyenneté et la classe sociale.

La citoyenneté, dans les travaux sur le droit du travail au Canada, prend une signification très particulière, très bien saisie par Harry Arthurs dans un article publié en 1967 et qui fait encore autorité : « Promouvoir la citoyenneté d'entreprise : un défi pour le deuxième siècle du Canada ». Jusqu'à un certain point, la citoyenneté industrielle au Canada s'est développée dans un système de relations industrielles en parallèle avec les normes étatiques et leur application, sans en dépendre. Elle était construite sur trois piliers : le soutien de famille masculin dans une relation d'emploi standard, l'engagement envers les droits sociaux qui venaient tempérer les aspects irritants de la classe sociale, et l'État-nation souverain d'allure keynésienne. La fin des années 1960 et le début des années 1970 représentent la période de l'âge d'or de la citoyenneté industrielle au Canada. Cependant, même à son apogée, elle est restée limitée dans son étendue, excluant les femmes, fortement dépendante du pouvoir du marché et faiblement institutionnalisée.

La dimension sexuée de la citoyenneté industrielle et son faible degré d'institutionnalisation sont importants pour comprendre la manière dont le processus de mondialisation, de déréglementation et de féminisation se présentèrent comme un défi à son idéal normatif et vinrent miner les conditions qui la supportaient. L'accord industriel et politique qui lui servait d'assise commença à s'amenuiser au cours des années 1980, au moment où le gouvernement fédéral endossa le néo-libéralisme, signa l'Accord de libre-échange et fit de la privatisation une alternative au service public.

Vers la fin des années 1980, et au cours de la décennie suivante, les gouvernements fédéral et provinciaux au Canada ciblèrent les salariés du secteur public en les invitant à la retenue. L'attaque législative contre les

syndicats du secteur public et l'érosion croissante des droits de négociation collective dans le secteur privé coïncidaient avec une réanimation des forces du marché et y conduisaient. La poussée de la mondialisation vint accélérer la restructuration de l'économie; alors, les taux de syndicalisation commencèrent à chuter, les inégalités au plan salarial augmentèrent et les conditions de travail se sont détériorées. La mondialisation de concert avec le néo-libéralisme s'est présenté comme un défi au caractère central de l'État-nation qui, traditionnellement, favorisait la protection des travailleurs et la promotion de leurs institutions par une participation démocratique à l'élaboration des objectifs importants de la législation du travail. La déréglementation devenait alors une réponse néo-libérale à la restructuration, causant une érosion de la relation normale d'emploi et du modèle de soutien de famille masculin. Depuis le début des années 1980, la relation standard d'emploi s'est effritée, alors que la proportion des femmes dans la main-d'œuvre s'approchait du taux de participation des hommes et que les formes atypiques d'emploi se sont répandues. En bout de ligne, davantage d'hommes se sont retrouvés dans des emplois auparavant identifiés au travail féminin, quoique les femmes ont continué à être surreprésentées dans les emplois précaires. Les forces de la mondialisation et de la déréglementation, de même que la féminisation du travail ont érodé le soutien fragile de la citoyenneté industrielle au Canada.

Le lent déclin de la conception traditionnelle de la citoyenneté industrielle avec l'homme comme soutien de famille apparaît inévitable. Les piliers qui l'ont soutenue au départ étaient faibles et le terrain qui lui servait d'assise a glissé. Cependant, ce qui va remplacer la conception traditionnelle de la citoyenneté industrielle demeure une question ouverte.

Notre essai trace les contours de deux scénarios visant une reconfiguration de la citoyenneté industrielle à l'avenir. Ces scénarios ne sont pas les empreintes, ni la carte, de régimes de citoyenneté, mais ce sont plutôt des modèles conçus en vue de saisir les bouts d'un spectre politique, sans l'éventail des diverses options. Ils sont conçus de façon à mettre en évidence les approches opposées à la régulation du marché du travail et ils renvoient en gros à des approches libérales et sociales démocrates en matière de droit du travail et de citoyenneté industrielle. Le premier modèle est celui d'une citoyenneté propre au marché; le deuxième, de la citoyenneté au travail.

Dans le premier modèle, l'accès aux attributs de la citoyenneté est réduit et les responsabilités en sont élargies. Les droits sociaux contrant le marchandage du travail ont été sévèrement tronqués et l'obligation d'occuper un emploi s'est intensifiée et elle s'est répandue. Les citoyens sont sur une base individuelle responsables des risques qu'ils prennent. Les droits à la citoyenneté industrielle diminuent pour prendre un caractère résiduel. L'emploi s'apparentant à un contrat commercial s'accroît et la

négociation collective n'est plus perçue comme un droit fondamental. Le contrat individuel devient le mécanisme privilégié dans l'établissement des conditions de travail, de même que l'accès à la syndicalisation libre et à la négociation collective devient plus apparent que réel.

À l'autre extrême, le scénario d'une citoyenneté au travail prolonge les attributs de la citoyenneté au-delà de l'occupation et englobe un éventail beaucoup plus large de travaux : ceux qui sont socialement nécessaires, incluant le soin des membres de la famille, comme étant une contribution à la communauté. L'ensemble des droits sociaux que l'État devrait garantir inclut la non-discrimination, le salaire minimum, les droits collectifs, l'assurance d'un accès égal à des services publics courants de haute qualité. Ces modèles ne sont qu'une illustration des visions qui s'opposent sur un aspect de la citoyenneté — les attributs qui résultent d'un engagement dans l'accomplissement de ce qui est considéré comme un travail valable socialement. Les systèmes actuels de citoyenneté, bien qu'ils s'inspirent d'idéaux et de modèles différents, sont le résultat de nombreux facteurs et le poids de l'histoire contribue à tracer leur cheminement.