Promoting Systemic Change in Industrial Relations: Creating the Conditions of Effective Workplace Participation

Wolfgang Streeck

University of Wisconsin-Madison

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The last panel of the conference before the general discussion will address national experiences outside the United States with strategies of system change in industrial relations aimed at bringing about effective workplace participation. In the following I will develop three questions that I expect to be of particular interest to the Commission, suggesting to participants that they deal with these in their papers and presentations as they see fit.

1. Is collective participation of workforces necessary or helpful for expanding individual ("direct") participation of workers in new forms of work organization? Everybody agrees today on the desirability, for economic-competitive as well as other reasons, of a participatory organization of work that emphasizes decentralization of competence, decision-making and responsibility to "frontline workers"; lean management; high skills; flexible and broad task assignments; and intensive horizontal cooperation ("team work"). The problem faced by policy makers is no longer whether such organization of work is desirable, but how to get there out of the still largely Taylorist organizational culture inherited from the past.

Direct participation, or "involvement", of workers in the labor process may be distinguished from collective participation of workforces through rights and procedures of information, consultation and co-determination (in short, through "ear", "voice" and "mus-
cle")¹, raising the question of how the two are related to each other. At one extreme is the view that transition towards a post-Taylorist organization of work makes collective participation dispensible, or may even be impeded by it. Alternatively and to the contrary, it has been argued that new forms of work organization are most likely to emerge and persist where they are supplemented by, and indeed negotiated through, mechanisms of collective participation. In its core, this controversy is over whether a participatory organization of work is likely to be broadly and successfully instituted as part of "the intelligent manager's bag of tricks", or whether it is more likely to come into existence as a result of joint regulation involving management and some representation of the workforce as a whole.

This problem has many facets, and a wide variety of empirical evidence may be brought to bear on it. There is, for example, the German discussion in the late 1960s and early 1970s on the relationship between Mitbestimmung am Arbeitsplatz (co-determination on the job) and Mitbestimmung auf Betriebs- und Unternehmenebene (co-determination at the plant and enterprise level). At the time the prevailing view among union officials was that decentralization of participation to individual workers and work teams would undermine collective participation through works councils and centralized representation through unions. The legacy of this debate persisted well into the early 1980s, when pressures for participatory work reorganization began to come from management rather than from within the unions, raising concerns amongst the latter over a possible preemption of works council and union rights by managerial "empowerment" of workers and work groups. As Lowell Turner and others have shown, however, union attitudes soon shifted, and the powers of works councils were increasingly used to demand and negotiate work reforms involving direct participation

¹ Collective participation may be vested in works councils, workplace unions, or any combination of these. I will return to this matter further down.
(for example, group work). In an important sense, this development amounted to a fundamental rehabilitation of the Mitbestimmung am Arbeitsplatz movement, confirming its two central claims that direct participation in the organization of work is compatible with collective participation and representation, and that it is in principle acceptable to management as well since it is economically superior to Taylorism.

Two slightly different but related aspects of the matter dominate the American debate of the 1990s. The first, as I see it, concerns the viability of management-initiated direct participation schemes that are not embedded in some system of collective "ear, voice or muscle". There seems to be growing evidence that worker-management cooperation in a reorganized, more decentralized labor process is more effective and longer-lasting in firms where there is also some form of collective participation -- in the U.S. typically through unions, in other countries often through works councils. Quality circles, total quality management, shopfloor programming, team work etc. seem to be more comprehensive, and less likely to disappear when the manager who introduced them changes jobs, where they were not unilaterally instituted by management but negotiated, regulated and jointly implemented by management and a collective representative of the workforce (Kelley, Voos). The situation seems to be similar in Britain, where worker-management cooperation seems more likely to occur in unionized than in non-unionized firms (Marginson)\(^2\). It may also be interesting to compare the success of the Swedish work reform movement in the 1980s, which took place in a context of strong unionism and legal rights to co-determination, to the much less impressive outcomes of the attempts of French employers in the 1970s, before the Auroux reforms, to move beyond Taylorism without the support of, and indeed often with the

\(^2\) Just as in the United States, there are no works councils in Britain that could speak on behalf of the entire workforce.
intention to undercut, unions or legal bodies of collective participation.

Second, there is in the American discussion the view that any collective participation of workforces, at least in the United States, would primarily be used by unions and workers to defend their traditional rights and the Taylorist work organization on which these are conditional. As a consequence, change towards post-Taylorist work organization is believed to be ultimately possible only in a "union-free environment". In part, this may have to do with American labor law, which is often claimed to force unions into an adversarial mode vis-a-vis management - an image that was recently reinforced by several cases in which unions used the Wagner Act to have arrangements for labor-management cooperation in non-unionized firms declared management-dominated and therefore illegal "labor organizations". While, as has been said, there are indications that the situation may be very different in unionized firms, the generic problem remains that in a participatory organization of work, it is often hard to distinguish the functional organization of the labor process from the representative organization of workers, which is bound to raise problems for the power and independence of unions and, where they exist, works councils.

Summing up, then, our first problem can be put in two questions on which international evidence may be brought to bear. Is collective participation more likely to be supportive or obstructive of a transition towards a directly participatory, post-Taylorist organization of work, and does it make sense to promote the former as a means of promoting the latter? And if collective participation may under certain conditions be supportive of

3 Or, more generally, in the absence of any form of collective expression of workers that is not unilaterally instituted and controlled by management. A weaker version of this is the belief that where management has accepted direct participation through work groups and similar structures, collective participation is no longer needed.

4 Although we have no knowledge of the number of cases in which unionized workforces have successfully opposed post-Taylorist work reform.
advanced work organization, what are these conditions, and how can one create them?

2. Does promotion of effective workplace participation require legislation, or should public policy wait for employers to introduce participation arrangements voluntarily and at their discretion? Legislative intervention would seem to be particularly suitable for instituting collective participation, but may also be used to set up or facilitate direct, individual, shop-floor or on-the-job participation. Note that legislation may support collective participation by creating non-union institutions like works councils, by reinforcing union rights in the workplace, or by any combination of the two. It may also support individual participation by creating bodies of collective participation capable of or even charged with negotiating work reform.

The case against legislative intervention is, interestingly enough, often based on the presumed economic benefits of workplace participation, not just for workers but also for employers and their firms. If participation is indeed as productive as is claimed, so the argument runs, managements can be trusted to introduce it on their own; if they don’t, this only proves that participation is less economically beneficial than its proponents maintain. Against this one may cite the observation that in many countries and firms, changes towards a participatory organization of work that is also more competitive were first demanded by unions and works councils, against the initial resistance of employers who often consider any form of workplace participation as an intrusion on their managerial prerogative. Collective participation in particular tends to be resisted by employers even where there is evidence that it may make direct participation with its economic benefits easier to introduce and sustain. If a case can be made that employer voluntarism is not sufficient for desirable changes in the workplace to occur at the right pace or on a broad enough scale, and that employers left to their own devices tend to be more reluctant in introducing workplace participation than they
should for their own good or that of the economy, this would speak strongly for legislative intervention.

Looking at the international evidence, most advanced industrial countries today do have legislation on collective participation in the workplace, affording workforce ear, voice and, more rarely, muscle the status of enforceable legal rights. It is important to note that there is legal intervention even in Sweden and Italy where industrial relations are traditionally voluntaristic and workplace participation is effected through unions rather than works councils. In the 1970s both countries, which had up to then left the regulation of labor-management relations at the workplace exclusively to unions and management, felt a need to use legislation to ensure that workforces as a whole were given an opportunity, at the minimum, to form and express collective views on the way their firms were managed. Countries with a longer tradition of legal intervention and a history of workplace participation through works councils, like Germany, the Netherlands, France and Spain, also legislated in the 1970s and early 1980s to strengthen workplace participation rights. While most of this legislation was concerned with collective participation, the French laws of 1982 (the so-called Auroux legislation) also gave explicit rights — of "expression" — to work groups and individuals. The main countries that remained unaffected by this international wave of legislation — which coincided with the beginning of the continuing, massive technological and organizational restructuring of advanced capitalist economies — were the United States

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5 While both countries relied on workplace unions as their chosen instrument of participation, what they were de facto instituting were rights of participation for a plant's entire workforce. In Sweden, the level of unionization is so high that for all practical purposes, the unions represent all workers. In Italy, unions made it their policy after the autunno caldo of 1968 to include non-members among the workers' councils, even though these were formally, under the statuto dei lavoratori of 1970, workplace union representations (rappresentazione sindacale aziendale). In a similar way, although in collective bargaining instead of participation, United States labor law ensures the identity of union and workforce representation at the workplace through the principles of sole bargaining agent and universal union membership once a union has been duly certified.
and Great Britain.

In general, it seems that governments that legislate on workplace participation pursue two major objectives. The first is to ensure that participation is more universal than it would be were its institutionalization left to the good will and prudence of managements and the policies and market power of unions. Universality may be deemed desirable either because participation at the workplace is regarded as a right of industrial citizenship that government is obliged to extend to all workers, or because of a belief that the economic benefits of participation should not be kept from workers or industries whose employers have not yet understood them or do not care about them. Second, by enshrining the ground rules of workplace participation in formal law, governments remove certain parameters of workplace labor relations from the discretion of the two sides, and thereby from their local haggling and struggling. Legislation may thus relieve local industrial relations from potentially divisive subjects. Also, by taking the basic rights and procedures of workplace participation out of local contention, legislation discourages attempts, especially by employers, to do away with them unilaterally under economic distress, or to threaten to do so unless the other side makes substantive concessions. In this way, legislation may make the two sides devote their efforts and inventiveness to cooperative pursuits and positive-sum games, protecting employers from the temptation to seek advantage in creating a "union-free environment" and workforces from the need to hedge against employers defecting from participation procedures and reasserting their managerial prerogatives if they see fit.

An important question regarding legislative intervention is how detailed, prescriptive and "rigid" it should be. Broad legislation that leaves much discretion to the local parties may in effect hand over the existence of effective workplace participation to the whims and vagaries of local power relations or managerial idiosyncrasies, and may fail to support the
idea of a universal right of industrial citizenship. At the same time, conditions do differ between plants and firms, so any legislation must allow for its implementation to be adjusted to local circumstances and to accommodate unforeseen variation. Frequently, therefore, legislation limits itself to mandating unions and employers to work out the details of participation arrangements between them. This is true especially in Sweden where the co-determination legislation of the 1970s requires unions and employers associations at national level to elaborate the terms of workplace participation by national agreement; that agreement, in turn, provides for plant-level agreements to be negotiated between individual employers and union workplace organizations. In other countries, such as Italy, governments historically refrained from legislating on participation altogether, leaving the subject to be regulated by national collective agreement, or helped bring about such agreement by threatening to legislate in case employers and unions failed to provide for workplace participation on their own.

The most common approach, it appears, is for governments to lay down in formal law the most basic substantive rules for workplace participation -- what broad rights workforces are to have with respect to information, consultation and co-determination -- and otherwise create a set of procedures by which they may be elaborated and adjusted to local conditions. This is in practice the case even in a superficially highly legalistic system like the German one, where formal agreements and informal understandings between works councils and management at the local level specify and modify the relatively detailed prescriptions of the

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This, of course, is much easier where unions are centralized and employers are represented by encompassing employers associations capable of making binding commitments on behalf of a broad majority of firms in their industries -- a situation quite unlike that in the United States.
Works Constitution Act (Betriebsverfassungsgesetz). Such local flexibility would seem particularly desirable where legislation, as is usual, deals primarily with collective participation, and where the latter is used to negotiate and implement direct participation on the shop floor and in the organization of work. The country where the formal law leaves more space than anywhere else for flexible local elaboration of participation arrangements is probably Italy; while that space seems to have been used very well in the past two decades, when a wide variety of works council-like information, consultation and co-determination arrangements emerged under the auspices and in the legal form of union workplace organizations, it is interesting to note that there is now a growing consensus in Italy that the time may have come for some form of consolidation of workplace participation through legislation.

Again summing up, panel participants may want to reflect on their national experiences with respect to the pros and cons of legislative support for workplace participation, in particular in the light of the fact that its economic benefits are likely also to accrue to the employers. And they may also want to discuss the question of how broad or specific, or how adjustable or rigid legislation should be, considering that the rules of workplace participation will always need to be adjusted to local circumstances and changing economic conditions.

3. What is the proper relationship between workplace participation on the one hand, and unions and collective bargaining on the other? Conventionally, comparative

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7 There is also the possibility in Germany to extend legal participation rights by national collective agreement. Interestingly, this is opposed by the employers which, in Germany at least, prefer legal rules. Italian employers, by comparison, seem to prefer regulating workplace participation by collective agreement so as to avoid legislation. The difference is not necessarily in different preferences for rigidity or flexibility; it may be that where participation is already instituted by law, collective bargaining on top of legislation may seem to give too many advantages to the unions.
industrial relations distinguishes between two basic models of workplace participation: one in which workforces exercise information, consultation and co-determination rights through unions, and another in which such rights are vested in union-independent works councils. Upon closer inspection, however, this distinction appears less than categoric:

(a) Even where workplace participation is operated through unions in the absence of legally-based works councils, distributive wage bargaining is typically kept separate from information, consultation and co-determination procedures; where it is not, the latter are not likely to function well. Such separation is, of course, easier to achieve where wage bargaining is centralized and conducted by "external unions" above the individual firm, with "internal unions" limited in their activities to workplace-specific subjects other than wages. To protect the differentiation between collective bargaining and workplace participation, workplace unions in systems without union-independent works councils often create special bodies, such as joint-consultation committees, to serve as channels for (collective) workplace participation unrelated in particular to wage bargaining.

(b) Even where workplace participation is vested in legislated works councils, these are in all countries in which such councils exist very closely related to union workplace organizations, so much so that they often are "union-independent" only in formal status. In fact, the European legislation of the 1970s and 1980s that revived and strengthened workplace participation always also strengthened the links between unions and works councils, allowing and indeed often prescribing closer cooperation and coordination between

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8 Remember also that union-based workplace participation need not always be voluntaristic and may be enshrined in formal law, and that participation through works councils may be based on collective agreement instead of legislation.

9 See the labor-management consultation arrangements in British firms in the 1950s and 1960s that withered away under management suspicions that they were abused by the unions for collective bargaining purposes, and under union suspicions that management used them to limit the scope of bargaining.
the two. Works councils as bodies of collective participation were in this way moved closer to unions as agents of collective interest representation, and were in the process infused with a range of representative functions in addition to the purely consultative ones they had served before. The reason seems to have been that as long as councils were merely mechanisms of consultation between employers and workforces on production matters, they neither attracted much interest from the workforce nor were of much use for employers, especially as these found themselves increasingly in need of consensus with their workforces on a growing number of complicated issues arising from the restructuring process.

European reforms of workplace participation in the 1970s and 1980s, through legislation or not, responded to a generally perceived need for institutions that, while not directly involved in distributive conflict, enabled employers and workforces regularly to exchange information, discuss projects and proposals, and work out agreements on increasingly complex and open questions of, for example, work organization, training, and technology use.

In countries with traditionally union-based workplace industrial relations, where this required supplementing representation with participation, unions increasingly supported the creation of joint union-management committees, sometimes also including non-unionized workers, that superseded the exclusively consultative council system of the postwar period, often after the unions' own status at the workplace had been strengthened by legislation. In countries with legally-based works councils, on the other hand, governments recognized a need for supplementing participation with representation, and for the purpose legalized closer connections between councils and unions. In effect this resulted in considerable convergence between systems with union- and with legally-based workplace relations.10

This is not to say that the formal distinction between workplace unions and works councils became altogether irrelevant. Where unions and councils coexist, the former's legal rights provide workforces with an additional resource to union power in inserting themselves in workplace decision-making. Also, works council independence from unions seems to help the latter isolate workplace participation from collective wage bargaining, and thus maintain their monopoly in this area. Still, unions are typically deeply involved in the operation of workplace participation through works councils, even if legally-based. Often they take the initiative in the creation of councils, and indeed usually have legal privileges in doing so. Where council seats are not altogether reserved to unions, their candidates usually win most of them. Unions also provide training and advice to elected council members, and often have legal rights of access to council meetings. Frequently fulltime union officials join works council negotiating teams or sit on joint labor-management committees. As a side-effect, unions tend to be highly successful in recruiting into membership works councillors originally elected to their position as non-union candidates.

Works councils seem to work best with strong unions involved in their operation while preserving the distinction between participation and collective bargaining, especially over wages. A central issue for the institutional design of works council systems is therefore how to provide for cooperation and mutual support between councils and unions, linking elements of interest representation with workplace participation, without undermining the necessary differentiation between the two, so as to allow for both cooperation in production and conflict over distribution to proceed on their own terms. For this to be possible, unions

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11 In all countries, unions have certain privileges in nominating candidates, and generally election procedures are written so as to give a degree of preference to union tickets.

12 Arguably, the country where this has been least well accomplished is Spain where works councils are de facto union workplace organizations with full rights to collective wage bargaining, as
may themselves have to change their modus operandi and organizational structures. Legislation may help them in this, for example by giving them access to resources, from state or employers, to build up a training and support system for elected works council members.

A related question concerns the effect of works councils, or statutory participation arrangements in general, on the organizational fortunes of unions. A frequently held view, especially in the United States with its history of company unionism, is that councils may weaken unions or make them altogether dispensable, by offering workers a less costly, alternative form of representation. If American employers advocate councils, they usually do so for this reason, which is why American unions often view councils with suspicion. In European countries, the problem is mainly discussed in terms of the effect of councils on the willingness of workers to join unions and pay union dues; there are some indications, although not conclusive, that such "crowding out" may have occurred in Spain, and to a lesser extent in the Netherlands and Germany. Alternatively, it has been argued, and the fear has been expressed not least among American employers, that councils may to the contrary provide unions with access, for example in the course of council elections, to a large number of workplaces they would otherwise not be able to penetrate. In this vein, the remarkable stability of German unionism in the 1970s and 1980s was often explained by hidden "union security" effects of the German works council system.

However this may be, union membership may certainly decline for reasons that have nothing to do with works councils, like in France where councils are weak, or in the United States where they are non-existent. In such countries, works councils may in fact be the only chance for the vast majority of workers to achieve some form of participation including,

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a result there seems to be relatively little information, consultation and co-determination on production matters in Spanish firms.
however limited, representation in the workplace, and perhaps also for unions to recover a
degree of influence and organizational strength, if only after considerable internal rebuilding
enabling them to offer support and guidance to workers in workplace participation
arrangements.

Again in summary, the third question is whether and to what extent strong unionism
represents a condition for effective workplace participation through works councils; how to
recognize unions in potential works council legislation, if at all; how to divide the representa-
tion of worker interests between unions and councils, and how to achieve coordination
between the two; how to protect unions from undesirable side-effects of councils, especially
in a country like the United States where industrial relations, including wage bargaining, are
highly decentralized; and how to equip unions to perform their role in a works council
system, to the extent that effective performance of that role is deemed important.

The panel's theme, then, is how, in the national experiences of the countries
represented, one may promote change in industrial relations towards effective workplace
participation. In particular, does it help to have bodies of collective participation, i.e., works
councils or unions, if one wants to have a participatory organization of work with direct
involvement of workers? Does effective workplace participation, especially through unions
and works councils, require legal intervention, or can it be left to employer and worker
voluntarism? And in what way can one bring in unions to promote effective workplace
participation, especially but not exclusively through union-independent, legally-based bodies
like works councils?