

Speaking up!

Voice, industrial democracy and
organisational performance

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Executive Summary

- The question whether workers should have “voice” in the workplace has been a matter of perennial controversy. In the recent past the discussion has been shaped by considerations of efficiency. If “voice” adds value to business it is acceptable, if it does not then there is no case for voice.
- This should be contrasted with the protection of the right to organise and collective bargaining in the international human rights conventions. Labour rights here are treated as human rights, as constitutive of what it means to live in a democracy. The UK’s national conversation about the labour market has never treated these arguments with any seriousness of purpose.
- The case for labour rights being human rights conventionally rests on the argument that the unions are a source of countervailing power in the employment relationship. However, there is a broader and stronger case for voice rooted in a particular understanding of what individuals need to flourish in the world of work – autonomy, control, possibilities for self-actualisation – as well as notions of individual free speech and expression that are safeguarded by institutions like works councils as well as trade unions. Workers whose jobs are characterised by an absence of these features are more likely to fall ill and have lower life expectancies.
- What is needed is a reconceptualisation of the goals of the employment relationship around efficiency *and* equity *and* voice. Performance is important, but it has to be balanced and reconciled with these other objectives.
- Employers in the UK have often found it difficult to accommodate these arguments, principally because their thinking has been influenced either by free market theory or by the “unitarist” belief that conflict can be eliminated from the world of work if strong leaders and effective managers apply enlightened people management practices.
- “Pluralism” – the view that conflict is inherent in the employment contract – is the best frame of reference for understanding the argument that labour rights are human rights. But pluralism was seen to have failed in the UK in the 1970s and employers turned away from this approach.
- The dismantling of the UK’s industrial relations system in the 1980s and 90s was an over-reaction to these earlier difficulties. No action was taken to find alternatives to trade union voice and this has left many workers with less influence than they would like over their working environment. . Those employees with the least influence are the most likely to be discontented – and the most likely to take time off work because they are ill.
- Even though efficiency arguments are not the only justification for voice, it would be hard to make the case for collective representation if the effects were always negative. The best evidence suggests that union effects on productivity depend on the general industrial relations climate. Unions can be good for productivity, bad for productivity or have no effect at all. The important point is to create the right kind of climate – high trust relationships between unions or works councils, running in parallel with individual employee involvement initiatives, appear to produce the largest productivity boosting effects.

- There is strong evidence to suggest that innovative working practices are associated with collective voice institutions. These studies suggest that individual employee involvement and collective voice are mutually reinforcing practices. Applying either one or the other does not deliver optimal performance.
- One explanatory hypothesis is that these practices demand a higher level of social capital in the workplace, which is developed and sustained by collective voice. There is further evidence to show that social capital is associated with social cohesion. One might argue therefore that there is a public interest in creating meaningful opportunities for workplace participation to improve organisational performance and sustain the public domain.
- Developing the discussion about voice demands a new set of questions about the world of work. In particular, all parties must be clear in articulating a vision of how individuals can flourish in the workplace and how the competing goals of efficiency, equity and voice are to be balanced.
- A possible policy agenda for the future could begin by recognising that all conceptions of human flourishing depend on health as a primary good and that work can have a positive or negative impact on health. Voice is important in this context because it can give individuals control, autonomy and opportunities for “self-actualisation”.
- The new voice institutions mandated by the EU directive on information and consultation must be made to work properly – in other words an effort should be made to use the institutions to deliver voice, efficiency and equity. This has advantages for government (rebuilding social capital and improving health outcomes), employers (a framework for engaging workers in initiatives to improve organisational performance) and workers (opportunities for meaningful participation). Government has a role to play in enabling all participants to develop the skills they need to secure the “mutual gains” that might emerge from the process. The role of government here is to act as a facilitator, working with business to equip managers with the skills they need to secure a well-motivated and engaged workforce. It also requires unions to take on a different role and appeal to a broader membership.
- It may be too difficult for any political party to take a clear view about the role of unions in a modern economy. Nevertheless, there is a strong case that measures should be taken to encourage the productivity boosting effects of unions and limit the scope for negative effects. The proposals for a *Union Modernisation Fund* are important because they could do much to enable unions to make a positive contribution to improving organisational performance at the same time as they protect the interests of their members.

1 Introduction

There have been few more controversial issues in employment relations than the question of worker representation and voice. From the industrial democracy debates of the 1970s, to the late 90s disputes about the statutory trade union recognition procedure, to the discussion about information and consultation today, employers, government and unions have failed to reach any shared understanding about whether workers should be able to shape the business decisions that affect them or how that influence might be exercised.

Indeed, for many employers the question is either illegitimate or misconceived. Some argue that there is no need to give workers voice – by definition somebody has to make business decisions and that somebody has to be the employer. Others suggest that management practice has moved on since the inception of trade unions in the nineteenth century. Apart from a low-skilled group of workers at the bottom end of the labour market, it is difficult to identify the gross exploitation that used to be widespread, most workers are satisfied with their jobs and there is little evidence to suggest that people at work want more influence than they have. The application of enlightened human resource management (HRM) practices has made trade unions redundant and adopting the right HR policy can solve any workplace problem.

Those favouring statutory support for worker voice often use economic arguments to support their position. It is said that collective voice, whether through a trade union or a works council, improves organisational performance. The TUC has consistently made this case over recent years, suggesting that collective bargaining can, in the right settings, boost productivity, reduce absenteeism and improve employee motivation. The case for voice is therefore contingent on whether voice has a performance enhancing effect or not. The TUC has been scrupulous in identifying those situations where voice boosts efficiency, but these situations seem to be the exception rather than the rule in the UK¹. As Freeman and Medoff point out in their classic *What Do Unions Do?*:

If industrial relations are good, with management and unions working together to produce a bigger “pie” as well as fighting over the size of the slices, productivity is likely to be higher under unionism. If industrial relations are poor, with management and labour ignoring common goals to battle one another, productivity is likely to be lower under unionism².

The risk that worker voice advocates face in developing an efficiency justification for their views is that if these effects cannot be detected, or if the impact on productivity and performance is negative, then the case for voice collapses.

It is a hallmark of the triumph of neo-liberal economics that the voice discussion is couched in the language of efficiency. For the advocates of employer prerogative, voice is inefficient because it gets in the way of effective management decision-making – or impedes the operation of freedom of contract. For HRM enthusiasts collective voice is less efficient than employer sponsored employee involvement programmes, supported by gainsharing and other policies designed to secure workers' commitment. Of course, HR professionals have made extensive use of efficiency arguments to boost their own standing too, suggesting that good HR adds value to business and that this is the best possible justification for their role.

¹ See *High Performance Workplaces*, TUC (2003)

² Freeman and Medoff, *What Do Unions Do?* (1984), 165

The government has fallen prey to the same temptation. Their consultation document on information and consultation rights made an explicit link between voice and the creation of “high performance workplaces”. The justification given for the trade union recognition procedure was that it would improve industrial relations and therefore boost efficiency. Interventions in the labour market are only virtuous if they have efficiency effects. Measures that do not boost performance and productivity are described as “burdens on business” and are therefore to be resisted – particularly if they emanate from the European Commission.

The “tyranny of economics” has consequently shaped the employee relations conversation over the last twenty-five years in a way that makes previous characterisations of the discussion almost incomprehensible. The purpose of this paper is to try and reinstate other elements in the narrative, to set out a clear case about why voice should be valued and identify the elements of a new settlement that can secure the enthusiastic support of employers, workers, unions and government.

2 Voice, Democracy and Human Rights

The International Human Rights Conventions

In the immediate post-war period the case for worker voice and collective bargaining rested on foundations that seem rather more secure than today's essentially contingent arguments about economic performance. The general understanding was that labour rights were human rights, linked inextricably to democracy and citizen participation. So, for example, the 1948 UN Declaration of Human Rights expresses clear commitments to freedom of association³, the right to work and protections against unemployment⁴ along with "the right to form and join trade unions for the protection of [workers'] interests"⁵.

Similarly the European Convention on Human Rights adopted in 1950 and ratified by a Conservative government in the UK, embraces "the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and join trade unions"⁶.

The Council of Europe Social Charter, adopted in 1961, supplements the essentially individual rights of the Convention by setting out the "social rights" that give the individual rights meaning by allowing individuals to make use of the fundamental liberties protected by the Convention. Part 1 of the Social Charter is explicit:

*All workers and employers have the right to freedom of association in national or international organisations for the protection of their economic and social interests.*⁷

Article 5 of the Charter protects the right to organise and Article 6 the right to bargain collectively: These rights are all also protected in conventions adopted by the International Labour Organisation⁸.

Most recently the draft Constitutional Treaty of the EU provides the following:

*Everyone has the right to freedom of peaceful assembly and to freedom of association at all levels, in particular in political, trade union and civic matters, which implies the right of everyone to form and join trade unions for the protection of his or her interests.*⁹

Precisely what these international instruments require as a matter of principle is a rather under-developed element in the UK's employee relations debate. It is almost as if government, employers and unions, are all slightly embarrassed that these obligations exist. Whatever the reason, there can be little doubt that these rights have rarely been discussed in the UK with any seriousness of purpose. Indeed, the advocates for the human rights conventions in the UK tend to be left-wing unions

³ Art 20(1)

⁴ Art 23(1)

⁵ Art 23(4)

⁶ Art 11(1)

⁷ Part 1, para 5.

⁸ C87, *Freedom of Association and Protection of the Right to Organise Convention*, 1948 and C98, *Right to Organise and Collective Bargaining Convention*, 1949

⁹ EU Draft Constitutional Treaty, Part II, Title II, Art II-12

looking for a stick to beat either their more moderate opponents in the TUC, or the UK government, or sometimes both. The Left see these instruments as useful to the extent that they can be prayed in aid to support unlimited rights to industrial action, a significant expansion of individual employment rights and the sweeping away of the Thatcher era trade union laws.

This does the argument for voice less than justice and misuses these profound international obligations to support a narrow and partisan agenda. There is rather more to be said for the Universal Declaration than that it enables miners to take industrial action to support nurses in dispute with their employer. Given its provenance, it is hard to sustain the argument that the Universal Declaration is derived from syndicalist principles of industrial solidarity. The best way to interpret the document is as a classically liberal instrument designed to safeguard fundamental rights and allow competing interests to be balanced and reconciled through democratic processes.

One could argue of course that the wide-ranging instruments adopted in the post-war era were creatures of a particular historical moment. Trade unions had played a central role in the struggle against the Nazis in both the USA and the UK and the “corporatism” that became a feature of public policy from 1945 to the late 1970s had its roots in the engagement of unions in governance during wartime, exemplified perhaps by Ernest Bevin’s tenure at the Ministry of Labour. It might be said too that the protection of the right to organise in the Universal Declaration entrenched the politics of the New Deal in international law – after all, Eleanor Roosevelt chaired the working group that drafted the text. Equally, given Bevin’s interest in the ILO when he was General Secretary of the TGWU, it was hardly surprising, once he became Foreign Secretary, that the UK should support conventions protecting collective bargaining.

There is some truth in all of this, but it does rest on the rather Whiggish view that particular individuals can determine the course of events. Far better perhaps to recognise that these individuals played a leadership role, but that the principles enshrined in the international conventions express something fundamental about democratic values and reflect an intense process of disagreement, played out by the representative organisations of capital and labour over a prolonged period. The idea that labour rights are human rights did not simply emerge spontaneously. Trade unions would argue that their transition from nineteenth century criminal conspiracies to twentieth century social partners depended on a century of struggle.

That these values are seen to have enduring importance is reinforced by their appearance in the EU Constitutional Treaty. A significant body of opinion across Europe, although probably not UK eurosceptics, sees the right to freedom of association as foundational, as constitutive of what it means to live in a democracy. Of course this is not uncontroversial, and the UK government resisted any stronger statement of the right to organise. Nevertheless, the Constitutional Treaty is meant to be a touchstone of our common values and is self-evidently designed to shape European social policy in the future.

So why is freedom of association important?

A moment’s reflection on the history of the twentieth century confirms that trade unions and other worker voice institutions were seen as important principally because they acted as bulwarks of democracy. Authoritarian regimes always sought out trade unionists first when they rounded up the usual suspects. One might even

say that in the post-war period the health of a democracy was partly judged by the representativeness and authority of its trade union movement. This was certainly the perspective of Eleanor Roosevelt and Ernest Bevin, both of whom were familiar with the policies of the inter-war fascist regimes.

But this amounts to little more than another statement of historical fact; it does not quite get to the root of why we should value freedom of association today. To develop the argument we need to ask some deep questions about democracy. In other words we need to ask why we value our institutions and be precise about the ends that they serve.

Western industrialised societies are complex organisms, characterised by a high degree of social differentiation and by well-developed institutions to manage conflict and produce durable compromises – people have varying tastes and sometimes quite contradictory belief systems, so a degree of conflict is inevitable. Democracy is about more than periodic elections on a one-person-one-vote universal franchise. Accountability is a process that operates, or ought to operate, at all times. That is why we place such a high value on freedom of expression, a well-informed and responsible media and intermediate “civil society” institutions that manage the relationships between citizens or between citizens and the state.

To steal a phrase from John Rawls, this suggests that democracies around the world are characterised by “reasonable pluralism”¹⁰. In other words, by the belief that people will disagree, express different preferences and adopt different religious or philosophical systems. The challenge of course is to find instruments to manage the “incommensurability of human ends”. How can we sustain a high degree of social cohesion and stability in a society where people often want different things and this fact is celebrated as one of the advantages of democracy? Freedom of association is valued partly because it enables those with similar views and preferences to express themselves in an organised way – and to reach understandings with others who do not necessarily share their views.

Sustained democratic participation is not a phenomenon that emerges spontaneously. Citizenship has to be learned. It depends on discussion, debate, the assessment of alternative points of view, a democratic decision by majority vote and a willingness by the losers to live with the outcome. At its best trade unionism exemplifies these fundamental principles, although it would be foolish not to recognise that union democracy is often messy and sometimes imperfect.

The draft EU constitutional treaty is explicit in making the link between trade unionism and democratic participation. In the UK this ought to be seen as an opportunity to re-legitimise collective voice and make the case that workplace representation and collective bargaining deliver benefits for employers, workers, unions and government. To suggest that trade unions can safeguard the public interest and sustain the public realm would have been treated with derision twenty-five years ago. Those who believe that voice is important must develop the case in precisely these terms if trade unionism and other voice institutions are to flourish in the future.

This notion of reasonable pluralism is not simply of relevance to questions of democracy and politics – it has resonance in some of the more recent thinking about how markets work too. John Kay’s account of the “disciplined pluralism” of the “embedded market” is the economic correlate of reasonable pluralism in the context

¹⁰ Rawls, *Justice as Fairness – A Restatement* (2001)

of political justice¹¹. His description of market processes suggests that developed economies are all characterised by ease of entry to markets, competition as a driver of innovation and wide scope for diversity and experimentation. However, going beyond orthodox free-market thinking, market operations and outcomes must be seen as legitimate and this depends on embedding markets in institutions and processes that reflect community values. Kay rejects the notion of the invisible hand and the argument that the general interest is best served when we each pursue our own self-interest. In part this is because markets can only work properly if market participants subscribe to the values of trust and respect – factors that cannot be accounted for in a narrow economic account of market processes.

If it is right to say that “pluralism” is one of our fundamental values, with both economic and political relevance, then it would be odd to argue that the world of work is an autonomous realm, subject to a different set of principles. Yet that is what many employers do argue, suggesting that somebody has to make a decision and that the alternatives to managerial prerogative are either chaos or inertia. At the root of this view is the notion that the employer must have the power and the right to coerce workers to do things that they might not otherwise wish to do. This is a very old idea, entirely consistent with the characterisation of the contract of employment as a master/servant relationship, but inconsistent with wider values of pluralism and democracy. Precisely what these wider values amount to has been elegantly expressed by Joseph Stiglitz, Nobel prize winner and former chief economist at the World Bank:

We care about the kind of society we live in. We believe in democracy, regardless of whether it increases economic efficiency or not.....Democratic processes must entail open dialogue and broadly active civic engagement, and require that individuals have a voice in the decisions that affect them, including economic decisions.....Economic democracy is thus an essential part of a democratic society.¹²

Yet in the common law tradition of freedom of contract the employment relationship is not conceptualised in this way at all. The governing assumption is that workers and employers enjoy an approximate equality of power, contracts are uncoerced, the worker sells their labour in return for a wage or salary and sacrifices a degree of liberty for the duration of the contract. If workers find their employers oppressive or incompetent then all they need do is look for employment elsewhere. If an employment relationship is going wrong then the best remedy for the worker is exit (bringing the contract to an end) rather than voice (working out the problem together and agreeing a solution). Properly functioning free markets will guarantee that there are ample employment opportunities available to employees unhappy with their lot. If unemployment occurs it is probably because the state, other public institutions (like an independent central bank), employer cartels or trade unions have interfered with the efficient operation of the market.

Apart from free-market fundamentalists there are very few who would accept this as an accurate characterisation of the labour market. Not only is it the case that there are inequalities of power – the worker is an individual, but the employer is a collective of shareholders, with a cadre of professional managers and a considerable volume of

¹¹ Kay, *The Truth About Markets* (2003)

¹² Stiglitz, *Democratic Development as the Fruits of Labour*, in Chang (ed) *Joseph Stiglitz and the World Bank – The Rebel Within* (2002), 304

physical capital – but there are significant asymmetries of information that compound these inequalities. To quote Stiglitz again,

*Imperfect information presents some individuals with the opportunity to act in ways that allow them to benefit at the expense of others....*¹³

For example, the employer will possess a good deal of labour market intelligence, will have a fair idea of where to find a replacement employee and will, other things being equal, have little difficulty in accommodating the costs of recruitment and training. The employee on the other hand will not necessarily be aware of all the appropriate employment opportunities available, may have to risk a spell of involuntary unemployment and may find that their skills are inadequate to meet employer demands.

The brutal realities of the employment relationship were well described by Otto Kahn-Freund, the architect of the academic discipline of labour law in the UK:

*[T]he relation between an employer and an isolated employee is typically a relation between a bearer of power and one who is not a bearer of power. In its inception it is an act of submission, in its operation it is a condition of subordination, however much that submission and subordination may be concealed by that indispensable figment of the legal mind known as “the contract of employment”.*¹⁴

A similar view was taken by John R Commons, intellectual father of industrial relations in the USA, when he reviewed the rationale for Supreme Court and other judicial decisions striking down as unconstitutional statutes designed to protect workers:

*The court starts with a fiction that a corporation is a “person” and then holds that an individual worker and an individual corporation are exactly equal, in that the right of one person to quit work is exactly equal to the right of the other person to discharge him. It thereupon declares unconstitutional all the laws in which the legislature tries to protect, against employers, the worker’s right to belong to a union, by prohibiting employers from discharging them solely on account of union membership.*¹⁵

As Budd has pointed out, Commons described these court rulings as “absurd”¹⁶ largely because they failed - and still fail - to reflect the realities of the employment relationship.

The case for voice outlined by both Kahn-Freund and Commons is that allowing workers to combine in trade unions and to bargain over wages and conditions of employment can address these inequalities of power. This indeed, was the rationale for collective bargaining advanced by the Webbs in their classic work published in 1897¹⁷. Yet this is an essentially defensive account, which assumes that class relations shape workplace relations and that the role of voice is to restrain the

¹³ Stiglitz, *The Roaring Nineties* (2003), 168

¹⁴ Kahn-Freund, *Labour and the Law* (1983), 18

¹⁵ Commons, *Industrial Goodwill* (1919), 47

¹⁶ Budd, *Employment With a Human Face* (2004), 105

¹⁷ S Webb and B Webb, *Industrial Democracy* (1897)

prerogatives of essentially malign employers whose only motivation is to minimise wage costs.

The principal difficulty with this view today is that many employees do not think about their employment in these terms. Most find work fulfilling and express little enthusiasm for the idea that their jobs are inherently exploitative. For example, The Work Foundation's recent *Work and Well Being* survey revealed that 67 per cent of employees were either satisfied or very satisfied with their employment, with a third of employees either neutral or dissatisfied with their situation¹⁸. To be genuinely persuasive, the case for voice has to be about more than correcting power imbalances in the employment relationship, important though that may be. It must offer something deeper that is linked to a clear understanding of why work has intrinsic value. Most importantly, it must be connected to a vision of how human beings can flourish in the world of work.

The Labour Market – A Market Like Any Other?

At the heart of the argument presented here is the notion that the labour market is not a market like any other. In other words it is wrong to treat labour as nothing more than a commodity because the labour market is a market in people rather than things, because individuals in democracies have rights as citizens and because these rights are not sacrificed at the moment when workers cross their employers' threshold.

In his famous post-war essay, T H Marshall documented how the development of political citizenship (the right to vote, equal justice before the law, rights to freedom of expression) had been supplemented by social citizenship – essentially the rights established by the welfare state which, as explained in the discussion of the European Social Charter above, enable all citizens to pursue their own path through life and make the best possible use of their life chances¹⁹. Marshall also explained that trade unions had, over the course of the previous century, modified the operation of the contract of employment through collective bargaining to establish a system – albeit rather imperfect – of industrial citizenship. In other words, unions had created some scope for limited worker participation, consistent with contemporary notions of human flourishing. Or, to put it another way, collective bargaining was one of the institutions that helped to create what John Kay would now call an embedded market.

But if the labour market is not a market like any other, if we are dealing with human beings rather than things, then what ought a good labour market look like? And where might voice fit as an element in a broader conception of industrial citizenship? I have suggested elsewhere that a plausible labour market vision might embrace the following²⁰:

- Full employment
- Fair pay (including equal pay for work of equal value)
- The absence of discrimination on the grounds of race, gender, sexuality, disability or age
- Secure and interesting jobs that employees find fulfilling
- A style and ethos of management that is based on high levels of trust, which recognises that managing people fairly and effectively is crucial to skilled work and high performance.

¹⁸ Isles, *The Joy of Work*, TWF (2004)

¹⁹ Marshall, *Citizenship and Social Class*, ed Bottomore (Pluto Press Edition) (1991)

²⁰ Coats, *What Next for the Unions?*, Unions 21 (2003)

- Choice, flexibility and control over working hours
- Statutory rights to establish minimum standards that protect workers against unfair treatment
- Voice for workers in the critical employer decisions that affect their futures.

Some might say that this is a counsel of perfection, but it ought to be seen as a rather modest statement of what individuals in developed economies need to flourish in the world of work. Quite coincidentally it is, in large measure, consistent with Maslow's hierarchy of needs²¹, and is therefore derived from relatively recent psychological insights into the nature of fundamental human needs and desires.

Maslow's argument is that humans seek to satisfy basic needs first, for food and physical security for example, before going on to satisfy higher needs like the desire for love, self-esteem and respect and ultimately "self-actualisation" – which essentially means the development of one's capabilities so that one can become "more and more what one is, to become everything that one is capable of becoming".

This is a useful framework for thinking about the quality of employment and whether employees find their experience of work rewarding. A good place to start is with a consideration of the impact of work on health as a primary good. This is important because any conception of human flourishing must rest on an assumption that individuals enjoy reasonably good health. People whose health is poor have fewer opportunities to act purposively and are therefore less able to satisfy the higher needs in Maslow's hierarchy. We know from the epidemiological evidence that psychological and physical well being can be adversely affected if employment is insecure, if workers are not treated with respect by their employers, if work is boring and monotonous, if workers lack autonomy and control over their work and if effort and reward are not in balance²². This is revealed by the so-called "social gradient" in health where workers in low status jobs are more prone to mental illness, coronary heart disease, musculoskeletal and gastro-intestinal disorders than workers in higher status jobs. In other words, bad jobs are more likely to make you ill.

While the existence of the social gradient is observable in all developed countries the steepness of the gradient varies across countries. Furthermore, overall life expectancy is significantly affected by the degree of income inequality that exists in developed countries²³. How might this be explained? Why is it that the egalitarian Japanese and the Swedes live longer than the richer and much less equal Americans? The evidence suggests that once Maslow's basic needs have been satisfied, how much money you have is less important than how much you have relative to others in society. Wide inequalities of income therefore affect self-respect, esteem and the possibilities for self-actualisation, this has an impact on physical and psychological well-being which in turn has an impact on life expectancy.

Voice is important in this context because it speaks to the need for autonomy and control. It also allows workers to satisfy Maslow's higher level self-actualisation needs as well as being a source of esteem and respect: "What I have to say is taken seriously by my employer" and "I know that I can shape the things that happen to me at work". In other words voice can help to counteract the adverse effects of the "status syndrome".

²¹ Maslow, *Motivation and Personality* (Longmans edition) (1987)

²² Marmot, *Status Syndrome* (2004)

²³ *Ibid*, 67

There is also evidence to suggest that workers' access to "social capital" can have a positive impact on their health. Those individuals with access to dense networks of social capital enjoy better health and longer lives. In this context social capital is defined as "the connections among individuals – social networks and the norms of reciprocity and trustworthiness that arise from them"²⁴.

Social capital can be found in informal friendship networks or formal workplace associations like trade unions or works councils. The argument in essence is that knowing you can rely upon others enables you to navigate critical events at work or at home. It is reflected in the commonsense understanding amongst workers that they can achieve more by working together than they can achieve alone. For example, a TUC study²⁵ suggests that more than two-thirds of non-union employees would like to act collectively with their colleagues in dealing with the following issues:

- Sex and race discrimination
- Bullying
- Working hours and conditions
- Negotiating salary
- Training

Somewhat surprisingly, forty-three per cent of respondents supported the proposition that they would like a process for promotion to be agreed between the employer and workers acting collectively.

Further support for the view that workers instinctively understand the logic of collective action can be found in an earlier study which shows that more than seventy per-cent of workers favour legislation that requires management to meet with employee representatives²⁶.

In addition to needing access to the collective resources of social capital, individuals also require their own resources to manage events in their lives. Anthony Giddens has developed this argument by referring to "ontological security" as a source of individual resilience. Essentially, he suggests that a sense of certainty about one's place in the world and a belief in the continuity of the social order contribute to individual well-being and social cohesion²⁷. The links between social capital and individual resilience in these terms remain somewhat under-explored, although intuitively the relationship seems to be strong. Those individuals rich in social capital are also likely to be those with the highest degree of "ontological security".

These arguments develop the conventional industrial relations narrative, looking beyond the processes of union-management relations to identify the sources of well being at work. Voice, autonomy and control emerge as important factors influencing well being and, while this story goes beyond the standard account of inequalities of power at work, there can be no doubt that these inequalities remain important.

Individual or collective voice? Unions or works councils?

Of course, a critic might say that this is all very well, but it fails to make the case for collective rather than individual voice or trade unions rather than works councils. The

²⁴ Putnam, *Bowling Alone* (2000), 19

²⁵ *A Perfect Union?*, TUC (2003)

²⁶ Freeman and Diamond, *What Workers Want from Workplace Organisations*, TUC (2001)

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²⁷ Giddens, *Modernity and Self-Identity* (1991)

first point can be dealt with speedily. As the TUC's research demonstrates, two-thirds of workers understand that inequalities of power are important in the employment relationship and they know that they must act collectively to have any real influence over their working environment. "Individual voice" is something that is within the employer's gift and, in the majority of cases, is focused on improving workplace performance - through quality circles, team briefings and suggestion schemes - rather than allowing workers themselves to identify the issues to be addressed. The employer therefore determines the agenda and the terms on which participation is to take place. It is difficult to sustain the case that individual voice is an effective instrument for the establishment of the industrial citizenship that the human rights conventions deem essential in a democratic society.

The second point demands somewhat more care. In this context it is important to distinguish between the role of trade unions as intermediate civil society institutions, sustaining democratic participation and defending their members' interests, from statutory provisions guaranteeing information and consultation in the workplace. The human rights conventions only appear to protect the former, principally because trade unions represent an authentic expression of worker opinion independent of the state. Trade unions here are a sub-set of the broader category of formal associations that are deemed to keep politicians honest and democracy healthy. That is why labour rights of this kind are characterised as properly deserving human rights protection.

The industrial role of trade unions is to conduct collective bargaining and ensure that a portion of the fruits of corporate profitability is shared with workers. This is an essentially distributive function where conflict over pay and reward strategies is likely to be unavoidable. Unions may believe that their members deserve a larger share of the returns to capital whereas employers may be just as concerned about the distribution of dividends to shareholders or the retention of profits for investment. That employers, unions and their members may disagree about the division of the spoils is a rather banal observation. However, following Freeman and Medoff, one might plausibly argue that if unions and employers have agreed a strategy for making the cake bigger, that might in turn reduce the scope for conflict in deciding on the size of the slices for each party. In other words, the recognition of mutual gains and the development of shared objectives can lead to much better relationships, even though the parties may disagree from time to time.

Many continental European industrial relations systems draw a distinction between the distributive function of collective bargaining and the "integrative" function of workplace information and consultation. Works councils are designed as institutions to solve workplace problems, create a sense of shared purpose, legitimise employer decisions and improve organisational performance. This broad intention is exemplified by the EU directive on information and consultation, Article 1(3) of which provides as follows:

When defining or implementing practical arrangements for information and consultation, the employer and the employees' representatives shall work in a spirit of cooperation and with due regard for their reciprocal rights and obligations, taking into account the interests both of the undertaking or establishment and of the employees.

Furthermore, it is important to understand that the right to be informed or consulted is a universal right, applicable whether the worker is a member of a trade union or not and whether a collective agreement applies or not. These rights are a recognition by

the state that there is a public interest in creating a set of institutions to promote employer/employee co-operation in the workplace. The justification is not just that workplaces will be more productive but that employer/employee relations will be improved and social conflict will be reduced.

Works councils on the continental European model, unlike trade unions, are not fully sovereign institutions. Their powers are circumscribed – by and large they cannot negotiate legally binding collective agreements or organise strikes. On the other hand, works councils are able, through their codetermination rights, to shape the design of jobs, the organisation of work and the management of change beyond the normal scope of collective bargaining. This does not mean that works councils have a veto over management decisions, but it does mean an attempt must be made to secure the support of the workforce before any significant change takes place.

In other words continental European systems attempt to draw a clear distinction between distributive issues where conflict is likely - or at least possible - and integrative issues where co-operation is essential. One might say that this is nothing more than commonsense. The enterprise of producing goods and services is inherently co-operative and business simply could not function if workers were so disgruntled that they made industrial sabotage their mission. Similarly, it is unlikely that coercive, authoritarian management will secure more than grudging acquiescence from employees and this is hardly a recipe for the high performance on which economic success is now said to depend.

While the argument may seem self-evident, the nature of the case has been poorly articulated in the UK. The focus remains on the right of employers to make decisions and “get things done”, and the information and consultation rights are seen as obstacles to be avoided rather than instruments to reinforce the importance of co-operation in production. British observers often fail to see that the institutions of the German, French and Dutch industrial relations systems must be understood as a mutually reinforcing whole, where collective bargaining is supported by the role of works councils and vice versa.

Anglo-Saxons find the continental experience odd because for us the distributive and integrative functions have always taken place in the realm of collective bargaining – and both employers and unions have given distribution more importance than integration. There are examples of employers and unions working together to achieve shared goals in both the UK and the USA²⁸, although the shareholder driven corporate governance regime in both countries has made it difficult to sustain these constructive relationships for a prolonged period²⁹.

The advantage of the new information and consultation obligations in the UK is that they may help to disentangle the distributive and integrative elements of representation. Unions might therefore be able to expand their influence over employer decision-making at the same time as employers benefit from engaging unions in positive programmes to improve workplace performance.

It has also been suggested that the difference between continental European and UK practice reflects different conceptions of the corporation. The Anglo-Saxon view is that the corporation exists to deliver returns to shareholders, professional managers

²⁸ See for example, Kochan and Osterman, *The Mutual Gains Enterprise* (1994) and *Partners for Progress: New Unionism in the Workplace*, TUC (1999)

²⁹ Konzelman et al, *Work Systems, corporate strategy and global markets: creative shop floors or a barge mentality?*, IRJ (2004) 216

are the shareholders' agents and workers have no specific rights against the corporation except those guaranteed by employment law. The continental conception is rather different, seeing the corporation as having a distinct personality and culture, consisting of different interests that have to be balanced and reconciled. Property ownership, including the ownership of shares, carries with it certain obligations – and ownership is not seen as legitimate unless these obligations are properly discharged³⁰.

So, for example, rather than maximise shareholder value, the corporation on the continental model exists to fulfil a clear mission or purpose, to develop its capabilities, innovate in new products or services *and* make a return for shareholders over the long term. Workers are seen as stakeholders with a right to voice in key decisions simply because their livelihoods are at risk if the corporation fails. Giving workers voice recognises the nature of their investment in the corporation. While the protection of trade unionism is derived from arguments about freedom of association and democracy, it appears that the arguments for works councils are more concerned with good corporate governance and the recognition that production is a collaborative enterprise.

Nevertheless, there is a more principled argument for worker voice through works councils derived from the protection of individual freedom of speech and expression. This too is entrenched as a fundamental right in the international conventions and is often seen as more important than freedom of association. Guaranteed rights to information and consultation are consistent with the notion that workers should be able to speak freely and receive an intelligent response from their employer. The collective rights are designed to make these individual rights meaningful simply because free speech means nothing where there is inequality of power between the parties. In other words an employee acting alone cannot make the employer listen, rendering the right to free speech of formal interest only. As the old adage suggests, we may all be free to dine at the Ritz, but only those with enough money have the capacity to do so. Similarly, we may all be free to tell our employers what we really think about our jobs, but only those of us with access to collective voice have the confidence to do so.

It is also worth recalling that trade unions have only provided an imperfect form of industrial citizenship. National pay negotiations may benefit workers financially but do not necessarily create a framework for meaningful participation in the workplace. Different models of trade unionism treat workplace organisation as either essential to union growth or as irrelevant to making progress through collective bargaining. One cannot infer from the presence of a collective agreement that the right to industrial citizenship is properly respected. The universal voice established by works councils compensates for these weaknesses and is consistent with the notion of human flourishing described above. It meets the needs for respect, esteem and “self-actualisation”.

The onus is therefore on those opposed to universal voice institutions to explain how these needs are to be met in the workplace. They must have a convincing story that is derived from a clear conception of human flourishing. As yet no alternative approach has been advanced with any degree of persuasiveness.

³⁰ Hutton, *The World We're In* (2002)

Rethinking the Terms of the Debate

So far this discussion has focused on freedom of association as a fundamental human right and the importance of voice as an instrument that reinforces the essentially co-operative nature of the production of goods and services. Little has been said about efficiency as a goal, or about equity – the need for fairness in employment outcomes.

John Budd has suggested that the policy discussion about the employment relationship needs to be reconfigured³¹. In other words, the goals of the employment relationship should be respecified as efficiency *and* equity *and* voice. He argues that work is a “fully human activity” that engages all our capacities as human beings. Work ought therefore to be an arena in which people can act purposively, knowing that their needs for self-actualisation and self-expression will be recognised. If employers fail to treat workers with respect, or fail to recognise workers’ demands for autonomy and control then they are treating work as less than a fully human activity. To conceptualise the employment relationship as concerned with efficiency alone is to treat the labour market as a market like any other – it is, in other words, a perspective that denies workers their humanity.

Recasting the employment relationship in this way demands an understanding that trade offs may be required between each of the objectives and that the employment relationship will become unbalanced if any one objective predominates. So, for example, a focus on efficiency alone may be inconsistent with equity and voice; a focus on equity alone may undermine efficiency; and an emphasis on voice may inhibit the change demanded by efficiency at the same time as it creates insider power for those with the loudest voices. Essentially, Budd argues for balance between these objectives and balance between employers and trade unions. He seeks to reinstate a pluralist model of industrial relations as a better alternative than either employer prerogatives in the free market or the pursuit of enlightened HRM. Much of the rest of this paper draws upon the insights offered by his conceptual framework.

However, before exploring these questions in detail it might be useful to review the current state of employer thinking on the voice question and it is to this issue that we now turn.

³¹ Budd (2004), op cit.

3 Free markets, Unitarism and Pluralism: The Information and Consultation Controversy

Employer Reactions

How might employers respond to the arguments advanced so far in this paper? Some might suggest that all this talk about human rights is just so much liberal waffle. Others might say that it sounds fine in theory but it has little to do with the realities of running a business where tough decisions have to be made and nobody has time for philosophical discussions. A general reaction might be to say that trade unionism and worker voice sound great in principle, but the principle looks much less attractive when confronted with recalcitrant shop stewards or the class war rhetoric of some of the recently elected union general secretaries. Anyway, employers might say, all these arguments are much less important than they used to be. Trade unions have all but disappeared in the private sector, representing fewer than one in five workers, and there is plenty of evidence to support the contention that most people are happy in workplaces without organised voice. Why ought employers to waste any effort in taking these issues seriously?

That employers might react in this way helps to explain the somewhat arid discussion about workplace representation in the UK. It was not always like this of course. In the 1970s employers invested much energy in developing their own proposals for a degree of industrial democracy. Self-evidently this was a direct response to the establishment of the Bullock Commission by the 1974-79 Labour government, but it is also true to say that employers were rather more positively engaged in the debate about workplace representation than they are today.

Developing arguments of principle and trying to be clear about the objectives of the employment relationship are important as guides to the design and implementation of public policy. Employer, worker and trade union responses to these arguments tell us something important about the kind of society in which we live and about the place of work in our lives. What has been missing from the national conversation on all sides is any serious effort to answer some of the more profound questions about work. The purpose of this paper is to change the terms of the debate and encourage all parties to develop their own narratives about the world of work. This is as much a challenge to unions and government as it is to employers.

It remains a weakness in the position of many UK employers that they simply do not understand the full implications of the argument that labour rights are human rights. When asked what the international human rights conventions mean in practice, many employers may give the response that the obligations amount to no more than workers being free to join trade unions and profess their commitment to the values of the labour movement. The same employers would reject the notion that freedom of association can only be meaningful if unions have the capability to conclude collective agreements. By and large this was the position taken by Conservative governments between 1979 and 1997. Trade unions were not proscribed, but their ability to represent their members was restricted by statutory intervention and by a public policy stance that saw collective bargaining as an evil to be eliminated so that the virtues of the market might prevail.

A moment's reflection will show that this position looks odd if freedom of association really is a fundamental right. This characterisation of the argument is tantamount to

saying that even though freedom of conscience in a democracy allows people to adopt religious beliefs of their own choosing, there is no objection if the state, or atheists or other interests decide to make it as difficult as possible for the religious to worship as they wish – in other words to practice what they find most valuable about their religion. Yet that is what many employers have argued in relation to freedom of association. Collective bargaining may be the source of value in trade union membership, but on this view it is entirely appropriate for employers to determine whether they will negotiate with a trade union, no matter what level of support that union enjoys – just as it would be perfectly acceptable on this account for atheists to determine whether the religious should be free to worship.

To explore these questions further demands some consideration of what may be termed either “employer ideologies” or frames of reference for interpreting relationships in the world of work. For ease of reference the competing frames of reference might be described as free markets, unitarism and pluralism.

Free Markets

The approach to free markets outlined here is that generally associated with Friedrich Hayek and Milton Friedman. The assumption is that liberty is guaranteed most effectively by freedom of contract in the market realm, because the ownership of property and the ability to dispose of it is the foundation of liberty. Ideally, the state should enforce freely agreed contracts and do nothing more to intervene in the operation of free markets.

There is one significant exception to this general principle. It is appropriate for the state to prevent the growth of phenomena that might impede the operation of free markets. One might argue that there is something of a paradox here. The objective of new right thinking is to keep the state small to allow the widest possible scope for markets; yet ensuring the widest possible scope for markets depends on interventionist action by the state.

The implications for freedom of association are clear. Hayek believed that trade unions were conspiracies against the general interest and appropriate subjects for state intervention – with the general interest defined here of course as that which emerges from the operation of Adam Smith’s invisible hand. A Hayekian perspective remains the best intellectual justification for the actions that Mrs Thatcher took against British trade unions.

A good example of employer thinking in the free market vein can be found in the Institute of Directors’ response to the present government’s trade union recognition procedure, now to be found in the Employment Relations Act 1999:

Businesses are not democracies. Directors and managers are appointed to run companies for and are accountable to the shareholders; and they all have the responsibilities this entails. If they have the responsibility for running the company, they should have control. And they should not be burdened, distracted and delayed by any manifestations of compulsory “industrial democracy”. That is why we oppose compulsory employee consultation and the compulsory recognition of trade unions³².

³² Lea, *Red Tape in the Workplace*, IoD (2003), 35

A similar response was given to the EU directive on information and consultation which was described as:

*....quite alien to British workplaces.*³³

These are genuinely striking statements, entirely consistent with the account of employer views given above, but difficult to reconcile with any meaningful interpretation of the international human rights conventions or the case for voice derived from the co-operative nature of production.

In this account workplaces are autocracies where managers decide and workers do as they are told. It is difficult to imagine that any organisation could adopt these views as operational principles and survive or prosper in the long term. Even in a world of information asymmetries it is doubtful that workers would find employment in these organisations attractive. We might also be slightly sceptical about the free market belief that the highest form of human flourishing consists of uncoerced capitalist acts between consenting adults.

The real problem with this frame of reference is that it constitutes only a partial account of how markets actually work. Most importantly, it depends on a somewhat crude understanding of human psychology. Only rational wealth maximisers would be willing to submit to industrial autocracy of this kind, and we know that most market participants are motivated by rather more than the desire to maximise utility³⁴. As John Kay has argued, markets depend for their effectiveness on a degree of embeddedness that is simply absent from free market theory³⁵. New Right thinking has the merit of intellectual coherence, but the elegance of the theory cannot bear too much exposure to reality.

The free market model only makes sense if markets are perfect – if information is perfect and competition is perfect. Yet we know from the work of Nobel Prize winning economists from Kenneth Arrow to Joseph Stiglitz that perfect markets are platonic ideals rather than practical realities. Information asymmetries are common and a series of quite unrealistic assumptions must hold for the “invisible hand” to work effectively.

A straightforward challenge to a pure free market theorist is to demand that they respond to the contention that the contract of employment is a relationship of inequality. If they refuse to accept that power relations are important then they ought to be asked to address directly Stiglitz’s argument that information asymmetries advantage one party and disadvantage another. They might respond by saying that the simple solution is to equalise the information available to the parties. No doubt this is true, but who might ensure that the supply of information to the less well informed party is improved? Surely not a trade union acting as a labour market intermediary. After all, trade unions are conspiracies against the general interest. But if not a trade union then is this a job for the state? And where does the need for public intervention to improve information flows leave the argument for the minimal state?

The free market frame of reference gives comfort to those who believe in management’s right to manage, but it is a poor guide to managing workers effectively

³³ Ibid, 47

³⁴ Lane, *The Market Experience* (1991)

³⁵ Kay, op cit

and privileges the rights of property owners over those who have nothing to sell but their labour. Many would find this an unattractive model of the economy and society.

Unitarism

“Unitarism” has a respectable intellectual pedigree and might be described as the commonsense of the HR profession today. Simply put, the unitarist frame of reference suggests that there is no inherent conflict between the interests of workers and their employer. It is true that employers can manage employees badly or well, but there is no problem in the workplace that cannot be appropriately handled through the application of the right HR policy or practice. For these purposes, HR is oriented towards the achievement of organisational goals. Voice is only of relevance to the extent that it helps the organisation to achieve these objectives.

This approach to the employment relationship can be detected in the CBI’s response to the government’s consultation document on high performance workplaces, which prefigured the implementation of the EU information and consultation directive in the UK:

[E]mployee involvement can only be effective if it is aimed at adding real value to issues which arise in the workplace – it should not be regarded as an objective in itself. To force firms to inform and consult, regardless of whether or not it would add value, would lead to employer and employee disengagement with [sic] the process and no tangible benefit for either party.³⁶

The frame of reference is explicit. While employee participation can “add value”, it is employers who are best positioned to make the judgment whether or not this is the case. There is little evidence that this mindset springs from a belief that workers are citizens or that voice is an essential element in human flourishing at work. Rather, it falls prey to the efficiency rhetoric and makes voice entirely contingent on employer assessments of performance effects.

A suspicion of representative participation is revealed later in the document where it is pointed out that:

There is significant evidence – both empirical and from member companies – that it is direct involvement which plays the key role in bringing about high performance and a committed workforce, with indirect involvement at most playing a supporting role.³⁷

Whether this is the best interpretation of the empirical evidence will be considered below (see section 4). But statements of this nature betray a certain naiveté about the reality of the employment contract, not too far removed from the “absurd” assumptions made by the US Supreme Court almost a century ago³⁸. There is no recognition here that relationships between employers and workers might even be slightly unequal, no suggestion that the co-operation is the foundation on which successful production rests and that voice can enhance co-operation, no acceptance that representative voice might serve to legitimise employer decisions and smooth the path of change.

³⁶ *High Performance Workplaces: The Role of Employee Involvement in a Modern Economy – CBI Response*, CBI (2003), para 2

³⁷ *Ibid*, para 11

³⁸ Commons, *op cit*

Nevertheless, this really should not surprise us. Unitarism has been the common currency of employer thinking about the employment relationship for some considerable time. The question is whether it is an accurate characterisation of relationships at work and, if it is not, whether this acts as an impediment to the development of more effective relationships between employers, workers and their representatives.

The distinction between the various employer frames of reference was explored by the industrial sociologist Alan Fox in his classic research paper for the Donovan Commission³⁹. He began by asking why:

*employers and managers commonly supposed to be hard-headed and practical should subscribe to a "unitary" view of industrial organisation which is so at variance with demonstrable facts. Why do so many of them retain an ideology which seems mere sentimental illusion?*⁴⁰

Fox gave a three-fold answer: unitarism was "a method of self-reassurance, an instrument of persuasion and a technique of seeking legitimation of authority"⁴¹. Self-reassurance was necessary because managers found it hard to accept that a substantial number of workers might be alienated from their jobs. Indeed, widespread acceptance of this reality might undermine managerial self-confidence. Persuasion was necessary to convince employees that the enterprise was an essentially harmonious and co-operative activity which only "fools or knaves" would choose to disrupt. The managerial function would be much easier to discharge if employees could be convinced that an identity of interests existed. Legitimation was a consequence of persuading workers that their interests were fully aligned with the employer's organisational goals. As Fox put it,

*The propagation of the idea that the interests of the rulers and the ruled are identical helps to confer legitimacy upon the regime.*⁴²

A sceptic might say that this was all very well in 1966, but is of little relevance today. Yet the language that was used in the 1960s is identical to the language that employers use in 2004. The rhetoric of teamwork, unity of purpose, shared goals, shared visions, working together and all being on the same side is ubiquitous. Indeed, until very recently the DTI sponsored a programme under the rubric *Success through partnerships with people*, which displayed a fundamentally unitarist orientation. One commentator in the 1960s described such initiatives as "an orgy of avuncular pontification"⁴³. Another was even more scathing about both management and trade union utopianism:

*There are two sides to industry, whatever the pattern of ownership or management.....These are harsh facts that cannot be spirited away by moral-rearmament touring troupes, or luncheons of progressive businessmen, or syndicalist castles in the air.*⁴⁴

³⁹ Fox, *Industrial Sociology and Industrial Relations*, Research Paper 3, Royal Commission on Trade Unions and Employers' Associations, HMSO (1966)

⁴⁰ *Ibid*, 5

⁴¹ *Ibid*

⁴² *Ibid*

⁴³ McClelland, BJIR (1963), 278, quoted in Fox, *op cit*

⁴⁴ Crosland, *Industrial Democracy and Workers Control*, in *The Conservative Enemy* (1962), 219

Of course, it would be absurd to deny that HR today seems to bear few similarities to the personnel management of the 1960s; but the development of more rigorous recruitment and selection, psychometric testing, the use of assessment centres, equal opportunities and diversity programmes, flexible working, innovative performance management systems and performance pay have done little to modify the essentials of the unitarist mindset. Most importantly, unitarism continues to deny that there can ever be legitimate conflict in the workplace. If conflict does exist it is the result of either: incompatible personalities producing personal friction; inadequate communication; “stupidity” on the part of some individuals to understand what is in their own best interests; or, the work of agitators stirring up the apathetic majority who would otherwise be content. Self-evidently this is a more benign perspective than the authoritarianism associated with market fundamentalist views, but it is still at some distance from the realities of the employment relationship.

The persistence of unitarism represents the power of business ideology to withstand the slings and arrows of unavoidable realities. Fox expressed the view that the unitarist frame of reference had been abandoned by most social scientists as “incongruent with reality and useless for the purposes of analysis”⁴⁵ but it remains central to the work of most HR professionals and is the most convincing justification for the CBI’s thinking. Perhaps the best explanation for the persistence of unitarism is that the other contending frames of reference had, until relatively recently, left the field. Employers were unenthusiastic about the less palatable consequences of free market thinking and found it equally difficult to accept that pluralism was of any relevance in a union free world.

Pluralism

Despite the overwhelmingly unitarist mindset of managers, pluralism was the most effective frame of reference for understanding British industrial relations from the end of the war to the election of the Conservative government in 1979. Indeed, one might reasonably have said that pluralism was the principle underpinning public policy in the industrial relations field. Pluralism is also the perspective most easily reconciled with the notion of labour rights as human rights.

Simply put, pluralism is the view that conflict is inevitable in the world of work. Conflict is inherent in the nature of the employment contract and in the different objectives of workers and employers – workers want a share of the profits as wages and employers want profits to be either distributed as dividends or retained for investment. Furthermore, workers want to be recognized as citizens in the workplace, they do not accept that they surrender their rights when they arrive at work. Conflict is not something introduced to workplaces by trade unions – it is present everywhere. All unions do is give these differences of interest organised and coherent expression.

From a managerial perspective the most important implication of pluralism is that the autonomous expression of workers’ views is seen as legitimate. Moreover, taking account of these views is an effective method for employers to manage the tensions inherent in the employment contract. As Fox said:

It is a necessary - though not sufficient – basis for recognising that co-operation is unlikely to be achieved in modern industry through the attempted manipulation of “team spirit”, “high morale” and “loyalty”, but needs to be engineered by structural adaptations in work organisation,

⁴⁵ Fox, op cit, 4

*work rules and work practices, and that direct negotiation with work groups is an essential part of this process.*⁴⁶

An observer with a sketchy awareness of history and current industrial relations reality might find all this persuasive but would be at a loss to understand how much of the private sector came to be union free and why so many employers continue to embrace the unitarist vision. The simple answer of course is that in the eyes of many employers pluralism was a comprehensive failure. Pluralism failed because Harold Wilson's proposed reforms (*In Place of Strife*) were defeated by trade union opposition, because Edward Heath's Industrial Relations Act was opposed by the TUC, and because by the end of the 1970s unions were regarded as part of the problem not part of the solution. Unions were seen as institutions that caused inflation, held back necessary structural change and had the power to bring down governments. Whatever residual employer support for pluralism may have existed after the upheavals of the 1960s and 70s was sorely tested by the failure of the social contract and the Winter of Discontent. One might even say that by the end of the 1970s mainstream employer opinion had lost faith in the UK's industrial relations system.

As David Marquand has pointed out, trade union power in the UK was generally more negative than positive, with a resounding "no" being the default setting for many unions confronted with unpalatable choices about change. In practice this meant that:

*attempts to turn [unions] into corporatist social partners on central European or Scandinavian lines always foundered*⁴⁷.

A natural employer susceptibility to the unitarist story combined with what was widely seen as persistent trade union intransigence therefore opened the door to Thatcherism. The syndicalist turn taken by trade unions during the miners' strike of 1984-85 reinforced employer attitudes and emphasised the erosion of union power. A resurgence of similar views today is likely to weaken rather than strengthen trade unions, yet many union general secretaries now seem to believe that an anti-employer and anti-government stance is the route to membership growth.

Nevertheless, there is a strong case that Thatcherism represented a huge over-reaction to the problems confronting the UK's industrial relations system. Union reform was certainly needed, but this did not necessarily demand the dismantling of the carefully constructed edifice of collective bargaining and the elimination of whatever modicum of industrial democracy the UK's system had established. As will be seen later, workers in the UK are unhappy with the degree of voice they now have and want more influence in the workplace. The pendulum has swung too far in the employers' direction and the modest steps taken by the present government have not yet restored the system to balance.

But despite the hostility of the public policy climate, it is still right to say that unions have, to a degree, been architects of their own decline. If pluralism is the frame of reference that gives the best account of the case for worker voice, then some influential unions have failed to understand that, more than anything else, pluralism is about balance. Of course there are inherent inequalities of power in the employment relationship that have to be addressed and self-organisation by workers is essential. But, whatever else may be the case, employers still need to run their organisations

⁴⁶ Ibid, 14

⁴⁷ Marquand, *Decline of the Public* (2004)

successfully and, in the private sector, make a healthy profit. If the relationship becomes unbalanced then the results are likely to be at best unpalatable and at worst dysfunctional. If employers have too much power then workers will find themselves under an industrial dictatorship. If workers have too much power then the outcome is likely to be inertia, glacial progress when more rapid change is needed, or industrial anarchy. Pluralism is designed to secure an equilibrium where the employer's needs for organisational success are understood, where workers are treated with respect and where the "voice" required for any meaningful industrial citizenship is not in question.

Furthermore, this notion of balance in a voluntarist industrial relations system demands that unions accept certain voluntary constraints on their freedom of action. For example, the strike should be a weapon of last resort, just as the lockout is a last resort for employers. Industrial relations should not simply be seen as a series of battles in the class war, with guerrilla tactics being favoured by either side, but as a process of dialogue where each party learns from the other.

Language is important here, and a rhetorical style that casts all employers as mean, unfair and exploitative is inconsistent with the "live and let live" or "give and take" demanded by pluralism. Employers sceptical about the pluralist model will be unimpressed by a revival of the language of struggle, strikes and strife. Unions need to appreciate this if they are to stand any chance of persuading employers to embrace pluralism once again. They also need to understand that they have yet to recover fully from the events of the 1970s and 80s. Media stereotypes remain important in shaping public and employer perceptions of trade unions

Do workers want voice?

A further argument that needs to be considered is that employees may not want more voice than they have today. Grand theorising about human rights, industrial democracy and the need for the transformation of employee relations may be dashed on the rocks of employees' indifference or inertia.

To begin with, there is a strong case for saying that a decline in the overall extent and quality of consultation could be detected from the early 1990s. Commenting on the findings of the 1990 Workplace industrial Relations Survey, Neil Millward observed that:

Britain is approaching the position where few employees have any mechanisms through which they can contribute to the operation of their workplace in a broader context than that of their own job. There is no sign that the shrinkage of trade union representation is being offset by a growth in other methods of representing non-managerial employees' interests and views.⁴⁸

The net effect of the Thatcher trade union reforms and the resurgence of unitarism was a detectable shift from indirect methods of consultation to direct methods of consultation – with the terms of direct consultation determined by the employer.

The 1998 Workplace Employee Relations Survey confirmed these findings, suggesting that workers were least likely to be consulted about the most critical

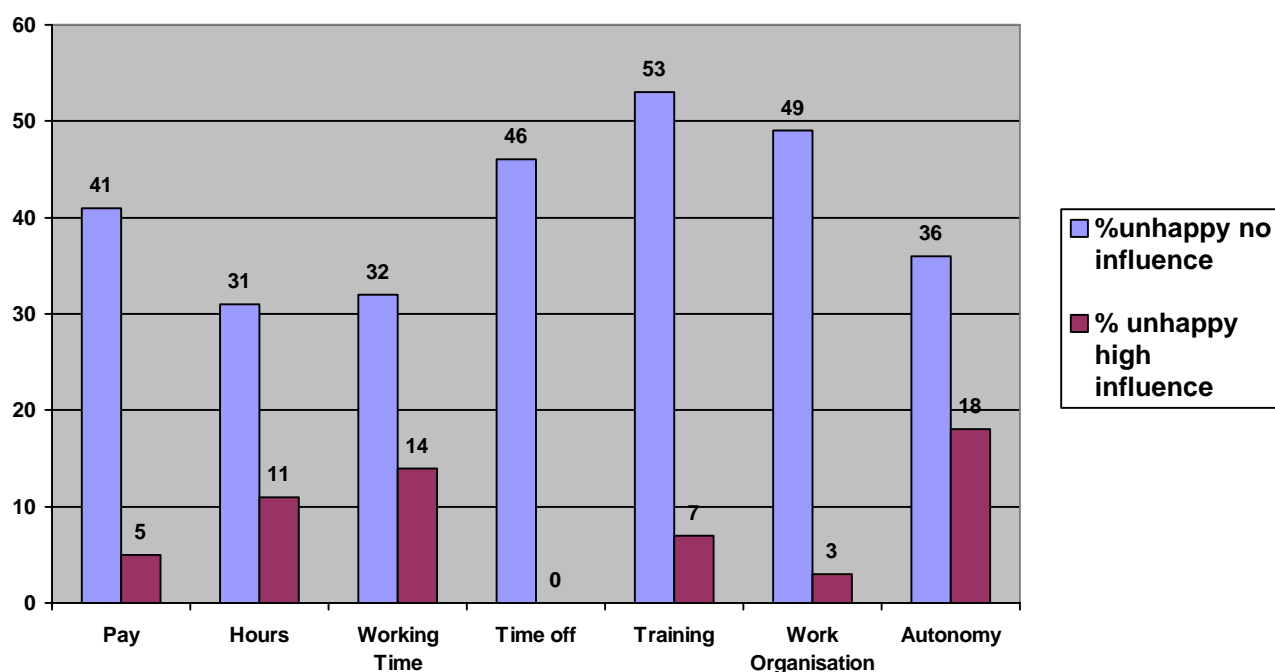
⁴⁸ Millward, *The New Industrial Relations?* (1994), 133

decisions affecting the working environment⁴⁹. So, for example, fewer than a fifth of employees reported frequent consultation about workplace change. Seventeen per cent said that they were asked their views on changes to working practices and fourteen per cent on plans for the workplace. The lowest levels of participation related to pay (five per cent) and redundancy (eight per cent).

The results of The Work Foundation's *Work and Well Being* survey show that those workers with the lowest levels of expressed well-being and the worst health are also those least likely to have voice.

One in six employees said that they were very unhappy with their work and of these a very large minority said that they had *no* influence over the most critical elements of their working environment (see Figure 1)

Figure 1: Job Influence and Job Satisfaction



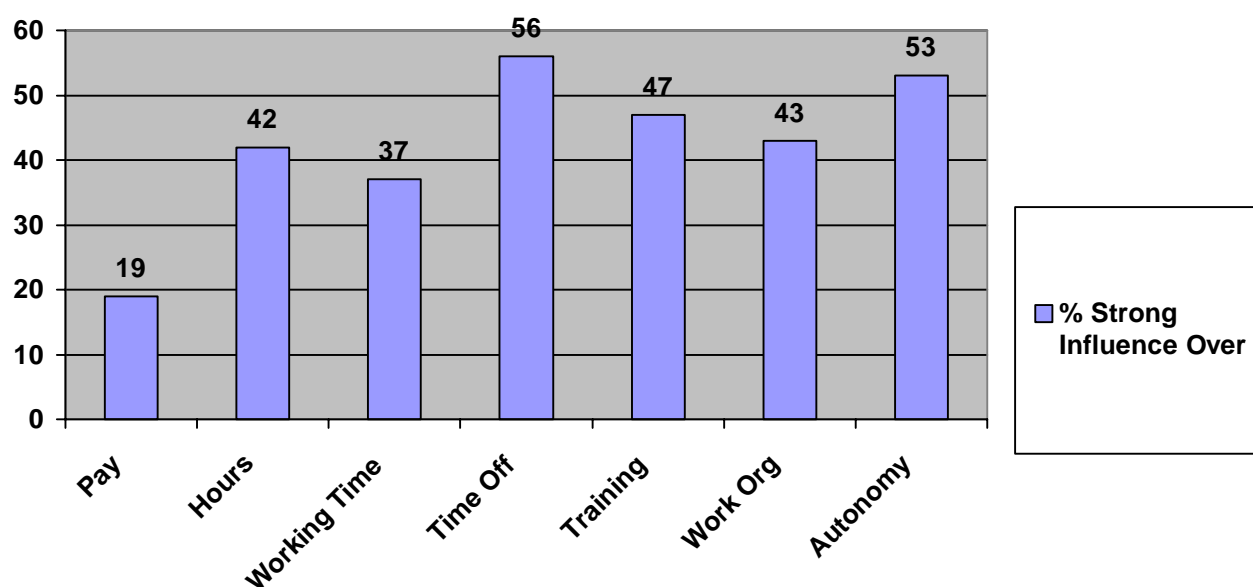
Source: Work and Well Being Survey, The Work Foundation (2004)

Applying Maslow's hierarchy of needs, these workers have little or no access to the resources that guarantee respect, self-respect, or the possibilities for self-actualisation. In other words these workers are doing jobs characterised by monotony, repetition and effort-reward imbalances, precisely those factors that lead to worse health outcomes, shorter life expectancies and more limited life chances. By working in bad jobs these employees are being denied the opportunity to flourish fully in the world of work. Moreover, workers in this group are significantly more likely to suffer from sickness absence and report that they are under stress.

Work and Well Being also shows that only a minority of workers have significant influence over the issues affecting job satisfaction and health (see Figure 2).

⁴⁹ Cully et al, *Britain at Work* (1999)

Figure 2: The Extent of Job Influence



Source: Work and Well Being Survey, The Work Foundation (2004)

In other words, few workers have influence over their level of pay – which suggests the possibility of widespread effort-reward imbalances. Barely two in five report strong influence over working hours – which indicates that work-life balance is more of a slogan than a reality. Less than half have influence over their access to training, when the possession of appropriate skills is essential to a sense of mastery over one’s work, and an important source of resilience when employees are under pressure. Just over two fifths have influence over the organisation of their work and just over half say they have a degree of personal autonomy. Despite the high levels of job satisfaction reported in the survey, an assessment of these quality of working life factors suggests that there is considerable room for improvement in many UK workplaces.

These findings are endorsed by the results of the *Working in Britain* study, which reports the increasing experience of work intensification and an overall reduction in the quality of working life⁵⁰.

But does any of this add up to an argument that workers feel unrepresented, that they would like more influence than they have? Was the erosion of consultation simply because workers had ceased to care? There is some evidence to support the view that there is a “representation gap” in the UK and contrary evidence supporting the case that employees are indifferent about voice.

⁵⁰ White et al, *Managing to Change? British Workplaces and the Future of Work* (2004)

In 1997 Towers suggested that the decline in collective bargaining in both the UK and the USA had left workers with less influence in the workplace than they would like⁵¹. He argued that legislative intervention was needed to enable workers to express themselves collectively and restore balance to industrial relations. He developed his argument before the present government's introduction of the statutory procedure for union recognition, but suggested that the proposals as they stood at that time constituted something of a false prospectus. The UK procedure was based on the US model of certification by the National Labor Relations Board. This had failed to stem the tide of the decline in collective bargaining in the USA and a similar procedure in the UK might be anticipated to produce similar results.

Pencavel responded by saying that this was unconvincing because workers seemed to place a rather low value on what unions could achieve⁵². He pointed out that in one study only forty-six percent of union members believed that their union made a difference to "what it is like at work". Equally, the 1998 WERS suggested that there was no strong evidence of suppressed hostility to management, which might otherwise be manifested in a propensity to unionise. Even though the coverage of collective bargaining had collapsed in the private sector and more employees reported a lack of influence on critical workplace issues, the extent of this increase was much lower than might have been expected given the reduction in the extent of collective voice. Furthermore, the WERS findings suggested that the principal reason for continued union decline was a "withering of support for membership amongst the existing workforce" in those workplaces where unions already had collective bargaining rights. Pencavel concluded that:

The impression from these figures is that unions are not being successful in persuading employees that they need union representation so there is little in these numbers to support Towers' claim that there is a serious representation gap in British workplaces.

However, more recent work has suggested that there is a representation gap and that workers do want more influence than they currently enjoy.

For example, Bryson and Gomez have explored what they call "frustrated demand" for unionisation in workplaces where no union is recognised and no workers are union members. After very careful analysis they conclude that the potential rate of unionisation in Britain is eleven percentage points higher than is currently observed – in other words slightly over forty per cent of employees⁵³. This is a significant finding because more than half the workforce have never been union members and are unlikely to know much about what unions do. One might also say that, despite their "organising" rhetoric, unions have done little to reach workers in the poorly unionised sectors of the economy. A more determined effort to appeal to the "never members", perhaps with a reshaped union offer focused on enabling people to "get on" at work, could generate a higher level of demand for union representation. To put it in rather different language, unions have been poor at gathering market intelligence, weak in boosting demand for their product and conservative in the nature of their offer to potential members.

⁵¹ Towers, *The Representation Gap: Change and Reform in the British and American Workplace* (1997)

⁵² Pencavel, *The Surprising Retreat of Union Britain*, in Card et al *Seeking a Premier Economy* (2004). The paper was originally presented at a seminar at the London School of Economics in 2002.

⁵³ Bryson and Gomez, *Segmentation, Switching Costs and the Demand for Unionisation in Britain*, CEP (2003)

The Bryson findings are confirmed by the British Workplace Representation and Participation Survey (BWRPS), which shows that forty-six per cent of employees in workplaces without unions would join a union if one were to be formed in their workplace⁵⁴. In their initial analysis of the BWRPS, Freeman and Diamond found that more than sixty per cent of non-union members favoured some form of collective voice – whether through a trade union or a works council⁵⁵. Freeman and Rogers found a similar result in their analysis of the demand for collective voice in the USA – an environment that is generally seen as more hostile to collectivism and where workers are assumed to be more individualistic⁵⁶. This international evidence is useful in demonstrating that workers in common law jurisdictions appear to share an understanding about the imbalances of power inherent in the employment contract.

How might these contradictory results be explained? One hypothesis is that workers are most likely to join unions where they believe that the payment of union subscriptions is worthwhile because of the improvements in pay and working conditions that will follow. If unions are weak and are unable to influence employer decisions then workers will be less likely to join, even if the union is formally recognised for collective bargaining. Brown et al have shown convincingly that the scope of union influence reduced as the coverage of collective bargaining declined so that many unions today are able to deal with little more than health and safety, grievances and disciplinary issues⁵⁷. It is also arguable that changes in product markets have made it more difficult for unions to extract a wage premium from employers, further reducing the advantages of union membership⁵⁸.

It is not a paradox to say that workers apparently want more job influence than they currently have but are unwilling to join unions that can do little to expand such influence. The evidence that workers want more voice is compelling, as is the finding from the BWRPS that both a large majority of both union and non-union workers support the case for collective voice. One possible conclusion is that the legislative changes introduced so far by the present government have made no significant impact in closing the representation gap. The statutory procedure for trade union recognition has now been in operation for four years and the coverage of collective bargaining has either remained static or declined somewhat – endorsing Towers' argument that the policy design was flawed. This is not the appropriate place to embark on a detailed analysis of union decline and the inability of unions to organise those who have never been members of a trade union. At this point it is sufficient to say that the implementation of the Information and Consultation obligations in the UK could begin to have a significant impact on the demand for and the extent of employee voice institutions – albeit in a non-union framework.

Assessment

The argument advanced here is that pluralism remains the best framework for securing an appropriate trade off between efficiency, equity and voice. But even

⁵⁴ TUC, *A Perfect Union* (2003), 34

⁵⁵ Freeman and Diamond, *What workers want from workplace organisations*, TUC (2001), 23

⁵⁶ Freeman and Rogers, *What Workers Want* (1999)

⁵⁷ Brown et al, *The Employment Contract - From Collective Procedures to Individual Rights*, BJIR Vol 38(4) (2000)

⁵⁸ Brown and Oxenbridge, *Trade Unions and Collective Bargaining: Law and the Future of Collectivism*, paper for Future of Labour Law conference, mimeo (2003). Blanchflower and Bryson, *What Effect do Unions Have on Wages and Would "What Unions Do" be Surprised?*, NBER Working Paper 9973 (2003)

though the argument may sound reasonable in principle a sceptic would say that it is weak in practice.

There can be no doubt, for example, that employer confidence in pluralism, lost in the 1960s and 70s, has yet to be regained. Despite the best efforts of John Monks during his tenure as TUC general secretary, there is little evidence to suggest that employers are moving towards the pluralist mindset. On the other hand, it is not at all clear that the pursuit by employers of policies derived from free market thinking or unitarism will secure any more success in the future than they have achieved so far. This is an important point, given that the case for free markets and unitarism is that they deliver *better* organisational performance than pluralism. Yet after almost twenty years of public policy hostile to trade unionism and the emergence of a virtually union free private sector, the UK still faces many of problems that the dismantling of collective bargaining was supposed to resolve.

The pure milk of the free market word was always too rich for the majority of employers and unitarist HRM is now the dominant narrative. But despite the supposed efficacy of enlightened and innovative management techniques, the UK still has lower GDP per hour worked than Germany, France or the USA. Removing trade union restrictive practices in the 1980s may have had a one-off effect on productivity, but that improvement in performance has not been sustained⁵⁹.

There is strong evidence to suggest that UK based firms are less likely than their counterparts overseas to implement cutting edge “people based” practices, implement such practices later and report worse results⁶⁰. More grist to the mill can be found in WERS⁶¹, which suggests that enlightened HR, described by the authors as “high commitment management practice”, is more likely to found in organisations that recognise trade unions for collective bargaining.

One might conclude therefore that “union free” does not necessarily mean more efficient or more productive. In some cases it may be that unionised means more efficient. The paradox is that British managers, for whatever reason, are failing to reap the productivity gains that can be observed elsewhere. Perhaps the explanation is simple – many British managers have yet to embrace the view that high performance depends upon co-operation and co-operation depends upon “structural adaptations in work organisation” negotiated with workers and their representatives. The high demand for representation and participation – whether through unions or works councils – suggests that workers may be more aware of the need for change than their managers.

The information and consultation obligations, due for implementation between 2005-09 create an opportunity for this process of modernising work organisation to begin. It is important to note that this is *not* necessarily about representation through trade unions and collective bargaining and it *is* about universal rights to representation.

It is difficult to make sense of the I&C obligations in anything other than a pluralist frame of reference. This will demand a change in employer mindsets and the development of capabilities to inform and consult properly. The risk is that employers will be more inclined to minimal compliance with the regulations rather than an enthusiastic effort to improve employee engagement and organisational performance, using I&C as a tool. This would be a missed opportunity.

⁵⁹ Porter, *UK Competitiveness: Moving to the Next Stage, DTI (2003)*

⁶⁰ Wall, *A Digest of Evidence from Studies of Process Innovation*, Sheffield, mimeo (2001)

⁶¹ Cully et al, op cit

But before turning to the implications of this analysis for public policy, it is worth pausing for a moment to consider what the evidence tells us about the impact of voice on organisational performance. Certainly, if voice was universally associated with appalling performance it is difficult to see how Budd's triadic objective – efficiency and equity and voice – can be made to work. Even though the case for voice does not depend on efficiency arguments alone, what evidence do we have about the impact of voice on organisational performance? Going beyond these arguments, is there anything more to be said about the impact of voice institutions on social cohesion and sustaining the public realm?

4 Voice, Performance and the Public Realm

Framing the Debate

The research community has treated the issue of voice and performance as essentially a question about unions. In other words, do trade unions have a positive or negative effect on productivity?

One might ask of course why this should be important if the case for voice rests on arguments about democracy and human rights? Are assessments of productivity effects in any way relevant to our discussion? Recalling Budd's proposal that the objectives of the employment relationship need to be balanced, it would be disastrous for the argument if all the empirical evidence showed that worker voice depressed efficiency to such an extent that it was holding back economic growth and leading to lower prosperity. On the other hand, it is reasonable to have a little less growth to ensure that fundamental human rights are respected; this is a trade off that might properly be made, just as we might choose to trade off higher productivity in reduced hours rather than additional income. But it would be much harder to justify the trade off if voice led to significantly lower growth and much higher levels of poverty. No doubt if there were empirical evidence to support this proposition many would argue that labour rights ought not to be treated as human rights, given that to do so might create a situation where many citizens could find it hard to satisfy Maslow's basic needs.

Fortunately for the purposes of this discussion, the evidence suggests that the case for both collective and individual voice can be properly reconciled with the demand for efficiency. There is also evidence to show that voice is not just consistent with equity – but may also have the effect of producing a distribution of earnings that is seen to be fairer.

What does the evidence tell us?

Freeman and Medoff undertook a comprehensive review in 1984 of the impact of US unions on productivity. They found that in general productivity was often higher in organised workplaces and identified three factors that explained why unions could have a beneficial impact on productivity⁶².

- Labour turnover was lower, so firms would not have to bear the costs of training new workers whose productivity would be lower in their early period of employment.
- Unionisation was associated with a professionalisation of management. Authoritarian or paternalistic processes were weeded out and supervisors “tightened the ship” by introducing new modes of operation likely to boost productivity.
- In some industries unions and employers had embarked on specific initiatives to improve productivity by reorganising work and redesigning jobs.

However, whether there is a productivity boosting effect or not depends on the industrial relations climate. When relations between unions and management are

⁶² Freeman and Medoff, op cit, 174-176

