Employee empowerment:
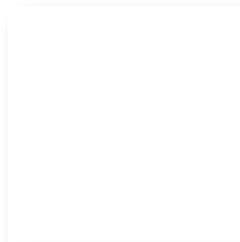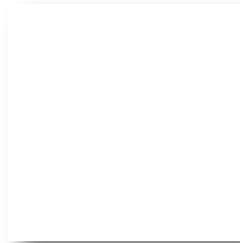## towards greater workplace democracy

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CENTREFORUM

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: Executive summary

At a time when the UK is struggling to recover from a deep recession and debt burden, it may seem strange to be advocating greater employee empowerment and workplace democracy. However the economic crisis has led many to question whether we can go back to 'business as usual' in the way we run the economy. So in addition to looking at how we can get back to economic growth we should also be looking at how we can work towards a 'good capitalism'. Greater employee empowerment can help to achieve both these aims.

Whilst empowering employees within the workplace is far from being a panacea, it is one way in which firms can start to take a more long term attitude to business decisions, in which investors put pressure on companies to adopt a more responsible attitude to runaway executive pay, and to improve company performance. There is strong academic evidence that employee ownership and participation have a positive effect on company performance, particularly where the two factors are both present. There is also developing recognition amongst some employers that empowering employees is of benefit to the firm as well as the employees, not least because it is a significant factor in the recruitment and retention of talented individuals.

Companies such as BT and Tesco, examined here as case studies, reveal the benefits of high levels of employee participation for employee relations and company performance. From the standpoint of improving economic and business performance, the question should not be why greater employee participation, but why not?

Boosting employee participation and company performance therefore should be an integral part of the coalition government's growth strategy, which is seeking to undertake long term supply-

side reforms.

But just as important as the economic case is the democratic and political case. Political philosophers, going back to John Stuart Mill, have argued that employees have a fundamental right to be more involved in key decisions that affect their lives in the community, the workplace, where they spend much of their lives. It has also been shown that a sense of autonomy and control in the workplace is important to the health and wellbeing of employees, with increasing "evidence that workplace democracy would contribute to workers' health".[1]

The case for employee empowerment has long been made by liberals and by some within the labour tradition. It is also increasingly finding resonance in the ideas of Conservative thinkers and the concept of the 'Big Society'. This paper focuses on the case for workplace democracy in its own right, but there is an even stronger argument for it acting in conjunction with employees having a financial stake in the business.

The only positive step in the UK towards giving workers greater rights in the workplace was the introduction of the Information and Consultation regulations as part of the Employment Relations Act 2004. These were introduced primarily as a response to the EU Information and Consultation Directive (2002/14/EC).

In our view, these regulations do not go far enough in empowering employees and have had limited take up as a result of both employers and unions doing little to promote them but also, perhaps, because of their limited scope.

If the case for greater employee empowerment was purely an economic one then it might be argued that it is up to the individual firm as to whether it involves employees. Because we believe that there is a more fundamental right for employees to have a voice in the decisions which affect them in the workplace, we consider that government does have a role to play in promoting employee empowerment.

We therefore propose a broad approach for government to follow in promoting employee empowerment. The detail of the individual measures will need further investigation to ensure

1   J.R. Foley & M. Polanyi, 'Workplace Democracy: Why Bother?' Economic and Industrial Democracy 27 (2006), p179

the practicality of their implementation. We are however very clear that whatever the detail of the measures required, there are strong economic and political grounds for giving employees greater voice in how their companies are run.

Continental European experience has shown that greater employee empowerment is entirely consistent with a capitalist model. However it would be wrong, simply to translate models of employee empowerment which work elsewhere, where the whole culture of industrial relations may be different, to the UK. Indeed it could be viewed as illiberal to seek to impose from the top down a particular structure of workplace democracy. There is much good practice already taking place in companies which has been developed in conjunction with the workforce and in some cases the unions eg BT and Tesco. The form which is most appropriate may well vary depending on the sector in which the firm operates and the history and culture of the individual firm.

Whilst some trade unions have been supportive of greater workplace democracy eg USDAW in the case of Tesco, others have been hostile eg Unite. In our view the very decline of trade union representation in the workplace has strengthened the case for empowering employees in alternative but complementary ways.

For participation to work well, a substantial culture change on the part of employers, employees and trade unions will be required. To point to the example of Germany or other countries, whilst useful, also needs to take into account the different history, context of industrial relations as well as company law. Change cannot happen overnight. We need to develop forms of employee empowerment which are appropriate to the UK rather than import wholesale systems from abroad.

It will be important to secure a cultural change amongst both employers and employees for employee participation to be fully effective. Simply legislating to secure employee voice is unlikely to be successful on its own. For this reason we advocate that, at least initially, an approach is adopted which draws on lessons of behavioural economics, commonly known as 'nudge' theory, to secure change. The focus should initially be on firms of more than 250 employees to ensure that excessively formal structures are not imposed where informal employee participatory structures

may already exist.

However as in other areas where changes in corporate behaviour are being sought, such as representation of women on boards and executive pay, legislation should not be ruled out if behavioural change by employers is insufficient.

Within this framework of behavioural economics there are several measures which government should consider to promote employee empowerment and workplace democracy.

An information and awareness raising campaign

This echoes the findings of the 2009 BIS report 'Engaging for Success', which called for a "nationwide awareness raising campaign" and increased support. This needs to come in two forms. First, a campaign targeted at employers, raising awareness of workplace democracy as an issue and as an effective way of modernising management style to increase productivity. Secondly, a campaign targeted at workers, making sure that they are all aware of their rights under the 2004 regulations and offering training and support for employees who want to establish systems of participation in their workplaces. These two campaigns should run in parallel and ought to increase both the number and quality of participation schemes.

Promotion of increased employee empowerment as a norm to which employers should aspire

Establishing norms of behaviour is an important factor in influencing actions. One way of doing this is by establishing reporting standards and so we consider that the government should retain the requirement on companies with over 250 employees to provide an annual public report on their practices of employee involvement. We believe that it would be a retrograde step to remove this requirement. Instead we believe it should be extended to give it meaning and that it should be extended beyond reporting on employee involvement towards employee participation and how these processes meet the principles of employees

- Having a say in the remuneration policies of the company (including at board level)
- Having a say in the terms and conditions of employment

of the company

: Having a say and influencing the strategic direction of the company

: Provisions for dealing with employee suggestions and concerns,

: any provisions they have implemented under the 2004 regulations.

This would help bring about the cultural acceptance of internationally recognised labour standards, as laid out by the International Labour Organisation which lists the "Existence of measures for consultation, cooperation and communication at all levels" as one of the essential criteria constituting a 'decent work standard'.[2]

The investor community has a potentially important role to play in promoting such good practice. The Financial Reporting Council could help to enforce this by amending the UK Corporate Governance Code to require listed companies to establish a policy concerning employee participation, including the measurable objectives for implementing the policy. Companies could be made to disclose annually a summary of the policy and progress made in meeting the objectives.

Incentivisation

A further way to encourage behavioural change is through incentives. There are many examples where government has sought to influence the behaviour of individuals through the tax system, eg a lower tax rate for unleaded petrol compared to leaded, alcohol and tobacco taxes etc. The recent suggestion by the Labour leader Ed Miliband that there should be differential corporation tax rates between "good" and "bad" companies extended this concept directly to the corporate sphere. Such an approach to promoting employee empowerment could be considered. A lower rate for corporation tax rates is just one option alongside other incentives such as a lower national insurance employers' contribution or raising the threshold at which national insurance is payable by employers. If an incentivisation approach were to be pursued then our initial view

2   International Labour Organisation, 'Decent Work, standards and indicators' working
     paper 58 (2005), p5

is that using national insurance would be a better approach than using corporation tax as it would give a larger incentive to more labour intensive firms.

This could be enacted through linking the discount to requirements for employee participation similar to those used by the 'Societas Europaea' or 'European company'. SEs have three standard models of employee participation, and it is expected that all new SEs should follow one of them. Workers can either be represented at board level alongside employers, in a separate works council of employee only representatives, or by a third option negotiated by common consent of employees and management.

The preference is for the third negotiated option. The first two models act both as incentives to 'nudge' employers and employees into reaching an agreement on such an option, and as a 'fall-back' in case of failure.

However an incentivisation approach is likely to be expensive - a one percentage point discount on the corporation tax rate would cost the Exchequer around £1billion per annum. At a time of fiscal austerity such a use of potential tax revenue may be regarded as a low priority. Another option which could be explored is some form of 'one-off' incentive to encourage companies to make the change.

Legislation

For this reason we think that legislation should be considered - but only for firms with, say, over 250 employees - if a substantial momentum cannot be built up towards greater employee empowerment from the first two measures outlined above.

We do not advocate legislation setting out a specific form of participation to be used by all firms. Rather we would propose a principles based approach and/or a structure based on the employee participation arrangements of the European company outlined above. In the former case there would need to be a body that approved participation arrangements. This could be along the lines of the Industrial Participation Agency or a strengthened Advisory, Conciliation and Arbitration Service (ACAS), as proposed by the Liberal Democrats in 1990.[3] The agency could

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3   'Citizens at Work', Liberal Democrat Green Paper (1990)

act as the promotional body for employee empowerment to run the awareness campaign outlined above, working with employers to help them find forms of workplace democracy that suited their circumstances. It could also establish the standards and norms for employee empowerment to be used in the second measure outlined above.

The government should also consider a change to company law to facilitate the use of a supervisory board structure for UK companies that wished to pursue this as an option.

In one area there may be a case for legislation more immediately ie employees being represented on remuneration committees of boards. In this instance, efforts to change behaviour without legislation have proved ineffective to date, and hence firmer action may be required. Two further steps could be taken to promote greater employee empowerment.

First, action could be taken to strengthen the existing Information and Consultation of Employees Regulations 2004.

Secondly, government itself as by far the UK's largest employer can transform the workplaces of over six million employees without any regulation whatsoever. By doing so it can set an excellent example for the private sector.

Care needs to be taken to ensure that this does not conflict with democratically elected bodies. Yet there are already precedents with workers being represented on the governing bodies of schools and foundation hospitals. In the case of democratically elected bodies it may be that formal works councils are the most appropriate form of representation. However it is clear that the public sector should be setting an example.

: Introduction

It might seem like an odd time to be advocating something as idealistic as workplace democracy – the idea that employees should be given a greater voice in the firms that employ them. The UK is currently struggling to recover from a deep recession and debt burden. The Conservatives, the larger party in the coalition government, have not traditionally been seen as supporters of such ideas. Surely, this would be a distraction from where the focus should be - on pro-business policies designed to help economic growth?

In fact the time for such a proposal has never been better. The economic crisis which began in 2007/8 is still continuing and there is widespread acceptance that we cannot go back to "business as usual". That would involve

> : managers of firms continuing to make short term decisions with adverse long term consequences; and

> : rapid escalation of pay levels for senior executives with no apparent linkage to company performance.

The quest is therefore on to create a new paradigm for British capitalism - what Will Hutton has termed "good capitalism"; or Anatole Kaletsky "Capitalism 4.0".

In addition there is strong evidence that employee empowerment, particularly when combined with employee share ownership, has a positive impact on company performance. Employee empowerment should therefore be an integral part of the supply side reforms being pursued by the coalition government.

In many European countries there is a different form of capitalism from the Anglo-American model. In countries like Germany it is recognised that shareholders are not the only party entitled to decision making rights in businesses . Workers are seen as

stakeholders in the business every bit as much as shareholders and customers and in many ways are seen as the most committed and dependent of all. Workers are less able to move between employers than consumers are between providers. Shareholders can invest in and divest from businesses with ever increasing ease and speed – a problematic issue in itself. For larger companies with many, often passive, shareholders, employees often have the most long term commitment to the business.

Greater employee empowerment is also relevant to the current debate on high pay, with concerns that pay differentials between top executives and ordinary workers are rising.[4] This is an issue which is difficult for the government to address directly; statutory regulation on high pay levels is seen as undesirable and illiberal. However suggestions from bodies such as the High Pay Commission (seemingly endorsed by the business secretary Vince Cable) that firms should include workforce representatives on remuneration committees shows that the balance of argument is shifting. Once it is accepted that workers should be included on remuneration committees (and hence accepting that this should not solely be the decision of shareholder representatives) then an important principle has, in our view rightly, been conceded that other stakeholders should have a say.

The last serious consideration given to this issue in the UK was over thirty years ago with Sir Alan Bullock's 'Report of the committee of inquiry on industrial democracy' (1977). Since then large quantities of academic research has continued to show the benefits of greater employee participation, not just to workers themselves but to the productivity of their firms and the wider economy.

"Cumulating evidence from North-western Europe shows that a well functioning employee representation system can play an important role in the modernisation and performance of a workplace"[5]

Furthermore the decline of trade union membership makes

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4   High Pay Commission, 'More for less: what happened to pay at the top and does it matter' (2011)

5   European Commission, 'Report on Industrial Relations in Europe' (2006) p102

it even more important to find alternative mechanisms for dialogue between employers and employees.

The political environment is also more favourable than it has been for many years. The presence of Liberal Democrat ministers in the Department for Business, Innovation and Skills gives this particular political saliency. We have already seen proposals for the introduction of large scale employee ownership in Royal Mail and the mutualisation of the Post Office. The Liberal Democrats, and their predecessor the Liberal party, have a long history of advocacy of such principles, as indicated in the preamble to the party's federal constitution

> "We want to see democracy, participation and the co-operative principle in industry and commerce within a competitive environment in which the state allows the market to operate freely where possible but intervenes where necessary."

The party has not however made this a major part of its recent policy platform, last considering the issue in the early 1990s.[6]

This concept also ties in with the Conservative party thinking about the 'Big Society' – with its stress on mutual association and participation and empowering communities to take control of their own affairs from external power structures. Whilst the main focus of the 'Big Society' has been on geographical communities, it can be argued that the philosophy is equally applicable to the workplace, where many people spend as much of their time as in their local geographical community.

At present many employees have little influence over the environment in which they work. They find their lives run by top-down management structures, their creativity stifled, their avenues for complaint or positive suggestions often cut off. This is detrimental to their wellbeing and to the long term health of the organisations that employ them. Indeed research has shown that "54 per cent of the actively disengaged report that work was having a negative impact on their physical health".[7]

Lack of employee voice can be a significant contributor to high stress levels through less autonomous work, poor work-life

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6   'Citizens at work', Liberal Democrat Green Paper (1990)
7   D. MacLeod and N. Clarke, 'Engaging for Success', BIS (2009)

balance and perceived threat of job insecurity. As one recent study put it "the health argument for workplace democracy, which has been generally overlooked in the past... may well be the most compelling argument because of its ethical and economic implications... Tax-payers also have the right to have a say about whether they are willing to continue to subsidize the actions of businesses that are affecting employee health and raising health care costs".[8]

The emerging strand of thought within Conservative thinking is represented, for example, by Jesse Norman MP who set up the Conservative co-operative movement. The stress in the public service reform proposals of the 'Open Public Services' white paper on mutuals and employee co-operatives is further evidence of this trend.

Within Labour, the Blue Labour movement, the Blairite Progress campaign group in their Purple Book[9] and the Compass campaign group[10] have all stressed the need to draw on Labour's co-operative traditions, and to introduce greater democracy into the workplace.

Increased interest in the political parties in this policy area is welcome but the focus has generally been on employee ownership, co-operatives and mutuals. However hard this is promoted it will be of little relevance to the majority of workers who will never form part of co-operatives or employee owned firms. Indeed there are reasons for arguing that from the standpoint of diversifying risk it is a bad idea for an individual to have a significant portion of their wealth as well as their main source of income from the same source. Nevertheless the arguments for employees having a greater voice in the workplace remains.

But it is not just amongst the political parties that there has been renewed interest in these ideas. Many organisations have

> "begun to see that workers respond best – and most creatively – not when they are tightly controlled by

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8   J.R. Foley & M. Polanyi, 'Workplace Democracy: Why Bother?', Economic and Industrial Democracy 27 (2006) p186
9   Robert Philpot, 'The Purple Book: A Progressive Future For Labour', Progress (2011)
10   Chris Ward and Zoe Williams, 'Swimming with the Tide: Democratising the places where we work', Compass (2009)

management, placed in narrowly defined jobs, and treated like an unwelcome necessity, but instead when they are given broader responsibilities, encouraged to contribute and helped to take satisfaction from their work"[11]

But progress has been limited. Efforts to engage more closely with workers have, often, been seen as little more than skin-deep charades designed solely with the intent of increasing productivity. Workers, it seems, are sceptical of the motives of employers who only pretend to offer them a greater say in the running of their organisations. And so improvements to employee participation have, for most organisations, been slight. According to the 'Workplace Democracy Association',

"Research by Towers Perrin and Gallup shows that between 71% and 86% of employees fall between being moderately engaged to actively disengaged from their workplace."[12]

Whilst the 'Workplace Employment Relations Survey 2004 "asked managers whether they normally negotiated with, consulted, or informed union or non-union representatives over twelve terms and conditions of employment [Pay, hours, holidays, pensions, staff selection, training, grievance procedure, disciplinary procedure, staffing plans, equal opportunities, health and safety and performance appraisal]…In two-thirds of workplaces (67 per cent) management did not engage with employees on any of the twelve listed items."[13]

Notwithstanding these trends and many notable success stories such as the John Lewis Partnership in the UK, W.L. Gore & Associates in the USA or Semco in Brazil, these ideas have until very recently remained outside the mainstream political discourse in the UK.

Despite the adoption in 2004 of an EU Directive on the information and consultation of employees, the closest that the UK government has recently come to promoting these ideas

11   Walton, 'From control to commitment in the workplace', Harvard Business Review (1985), p76

12   'What is Workplace Democracy', home page of Workplace Democracy Association website http://workplacedemocracy.wordpress.com, accessed on 06/01/2012

13   Kersley et al, 'Inside the Workplace: First Findings from the 2004 Workplace Employment Relations Survey' (2006)

is a 2009 BIS report 'Engaging for Success' on the related, though much broader, topic of employee engagement. Whilst filled with many suggestions for how businesses could better motivate their employees, the report only touches on the issue of actual employee 'voice' or representation within businesses – potentially one of the most powerful ways in which really to engage employees with their work.

Nor does the report discuss in any depth the alternative forms that such representation can take, or outline any concrete proposals for potential government action on this issue, concluding that it is "not an issue for legislation or regulation".[14] It is our view however, that more government action will be needed to overcome the reluctance on the part of businesses and trade unions to depart from the status quo.

The time is now opportune both economically and politically to look at what can be done to enhance employee 'voice' and workplace democracy. Whilst empowering employees in their workplace may not be a new idea it is one "whose time has come".

This paper therefore

> : defines for the purpose of this report what we mean by the term 'employee empowerment';
> : looks at the arguments for employee empowerment;
> : examines the different forms which employee empowerment can take;
> : considers the role of trade unions and the overseas experience;
> : looks at the role of government in introducing employee empowerment; and
> : makes recommendations as to the way forward.

The paper explicitly does not consider employee share ownership, co-operatives, mutuals etc. This is not because these are unimportant (indeed this is to be welcomed and sits naturally alongside greater employee empowerment) but because they have tended to receive more recent attention by policymakers in a way that greater employee empowerment has not.

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14   D. MacLeod and N. Clarke, 'Engaging for Success', BIS (2009), p117

: 2 What do we mean by employee empowerment?

There has been a variety of terms used often interchangeably by authors to cover the concept of employee empowerment- 'employee participation', 'industrial democracy', 'workplace democracy', 'employee voice', 'participatory management' and many more. The phrases incorporating the term 'democracy' carry connotations of a specific form of empowerment. Terms such as 'employee voice' or 'employee participation' could be interpreted as simply giving employees a say rather than real empowerment.

The term which we prefer is 'employee empowerment' but for the purposes of this paper the terms will be assumed to be broadly synonymous.

Attempting to pin down what conditions are required before we can call employees empowered or a workplace 'democratic' is, however, far from easy. Practices can take many forms: self-managed work groups, traditional hierarchies where managers are elected by the workforce, worker representation on boards or in work councils, or informal procedures where workers nonetheless are consulted over decision-making and can have significant influence over decisions taken. As with countries employers can practice democracy in a variety of ways.

Nor is it simply a question of dividing employers into those who practise workplace democracy or employee empowerment and those who don't; there is rather a sliding scale based on the degree of freedom and control that employees have. The extent to which employees participate in decision-making bodies and procedures is an important element of this, but so too is the extent to which that participation represents real influence over important decisions:

> "Participation is a necessary but insufficient condition for workplace democracy … Workplace democracy exists when employees have some real control over organizational goal-setting and strategic planning… Participation does not meet the requirements for workplace democracy, because it exists whenever employees are allowed to give input into organizational decisions, even if it means they only suggest ways to implement decisions that have already been made."[15]

Some formal structures of employee empowerment – work councils for instance – can be little more than tools for managers to inform their employees of pre-made decisions and enlist their help in implementing them. By contrast, some firms have few formal structures at all, but nonetheless foster a highly inclusive working environment where workers have real influence. Carole Pateman categorises employers into three groups which highlight these different types of participation (see box)

Pateman's participative categories[16]

Full participation	Partial participation	Pseudo participation
Worker representatives have equal power to determine outcomes in the decision-making process.	Worker representatives influence the decision-making process but do not have equal power to decide the outcome.	Participation is used by management to persuade employees to accept ready-made managerial decisions.

Clearly, if we are interested in promoting workplace democracy, we are most interested in the first two categories, as only once participation leads to genuine influence can any effects of democracy really begin to be seen. Marchington and Wilkinson illustrate this path of increasing participation through

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15   J.R. Foley & M. Polanyi, 'Workplace Democracy: Why Bother?' Economic and Industrial Democracy 27 *(2006), p174*

16   Sayce and Gold, 'Revisiting industrial democracy and pension trusteeship: the case of Canada', Economic and Industrial Democracy (2011); ideas originally from Pateman. 'Participation and Democratic Theory' (1970), p68

their 'Escalator of participation', shown below. The top level, control, represents completely autonomous worker groups. Co-determination represents shared power, as practised by many continental firms with powerful works councils and supervisory boards. At present, however, the UK government has only gone so far as to call for information, communication and consultation of employees, and in many cases even that is not achieved.

Escalator of participation[17]

Control

Codetermination

Consultation

Communication
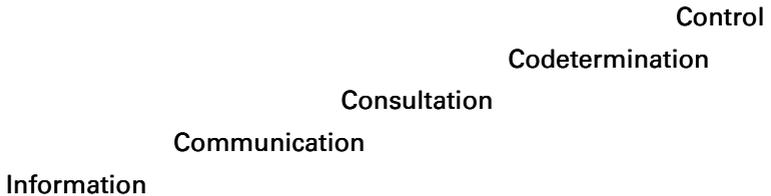
Information

Knell and Philpott draw attention to the dichotomy of a growing incidence of information and consultation methods across UK workplaces and to equally robust evidence that a sizeable proportion of UK employees feel that their voice lacks influence in workplaces and lack trust in senior management.[18] This Knell and Philpott attribute to the lack of a shared sense of organisational purpose and culture within the workplace. when evidence suggests that it is a shared sense of organisational purpose among employees which is a key driver of sustainable organisational purpose. An imposed common purpose only creates cynicism and resistance.

When talking about employee empowerment or workplace democracy, we mean more therefore than simply good employee engagement as recommended in the review of employee engagement for BIS by David MacLeod and Nita Clarke. Whilst there is good evidence to show, as Macleod and Clarke did, that good employee engagement is beneficial to a firm, it typically does not extend up the ladder as far as co-determination. The subject of this report goes beyond good employee engagement.

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17   Marchington and Wilkinson, 'Human resource management at work' (2005), p4
18   John Knell and John Philpott, 'Up to the Job', Demos (2011)

: 3: Why employee empowerment?

The idea of introducing aspects of democracy to the workplace is far from new. The early Belgian syndicalist César De Paepe pointed out in the late 19th Century that workers had far more knowledge of the workplace, where they were denied influence, than of political affairs, where they were at least entitled to vote. In the eyes of such early thinkers workplace democracy was not only desirable as a natural extension of democratic principles; it was also inevitable.

A liberal Idea – the political case

Workplace democracy and employee participation have been at the core of liberal thinking since it was first espoused by John Stuart Mill in 'Principles of Political Economy':

> ...the civilizing and improving influences of association, and the efficiency and economy of production on a large scale, may be obtained without dividing the producers into two parties with hostile interests and feelings......the relation of masters and work-people will be gradually superseded by partnership, in one of two forms: in some cases, association of the labourers with the capitalist; in others, and perhaps finally in all, association of labourers among themselves

Mill then argues that the advantages of this form are that the co-operatives and associations bring material gain from workers having better incentives, but also moral gain from:

> "the healing of the standing feud between capital and labour; the transformation of human life, from a conflict of classes struggling for opposite interests, to a friendly rivalry in the pursuit of a good common to all; the elevation of the dignity of labour; a new sense of security and independence in the labouring

class; and the conversion of each human being's daily occupation into a school of the social sympathies and the practical intelligence."

Although Mill was specifically arguing for worker ownership, some of the "moral gains" which he saw can derive more narrowly from greater employee participation. Amartya Sen also shares the view that there are significant moral gains to be had from greater employee empowerment, as he lists 'voice' as one of the important capabilities that together form a measure of human wellbeing. The central tenet of his approach is that a society's prosperity should be evaluated in terms of its citizens' "capabilities to function: that is, their effective opportunities to undertake – with the resources or commodities they command – the actions and activities they want to engage in, and to be who they want to be".[19]

In order for it to be possible to transform people's resources into capabilities, a number of 'conversion factors' are necessary which may have to include institutional factors such as the right of employees to participate in workplace decision-making. Using this capability approach, a number of current academics therefore argue in favour of a "development of a 'capability for voice' in the British system of industrial relations".[19]

Some recent writers such as Ward and Williams[20] argue that "the absence of democracy in any meaningful economic sphere is in direct conflict with Rawls' theory of justice which values liberty, equality and democracy". Whilst there may be debate as to whether this is one of Rawls' "fundamental liberties" which should be subject to constitutional guarantee, O'Neill argues that workplace democracy is of value in helping to develop the democratic and participatory habit amongst citizens.[21]

There are therefore good arguments as to why liberals, who believe that an essential part of individuals' freedom is influence and control over the decisions which affect their lives, should see there being a strong philosophical justification for workplace

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19   Aristea Koukiadaki, 'The establishment and operation of information and consultation of employees' arrangements in a capability-based framework', Economic and Industrial Democracy 31 (2010)

20   Chris Ward and Zoe Williams, 'Swimming with the tide: Democratising the places where we work', Compass (2009)

21   Martin O'Neill, 'Liberal egalitarian routes towards economic democracy' (2008)

democracy as part of the empowerment of the individual.

In its 'Big Society' agenda, the Conservative party has also been keen to promote the idea of citizens taking control of their communities. When communities come together to run themselves, it is thought, they fare far better (and indeed it is more liberal to encourage them to do so) than when they are organised externally by hierarchical and distant managers.

So far, this debate has focused largely on *geographical* communities – villages and neighbourhoods. But from the liberal perspective as Greaves and Lishman point out,

> "A community is a group of individuals with something in common: nationality, neighbourhood, religion, work, workplace..."[22]

and the community and social group, in which most adult citizens spend much of their lives, is their workplace. Greaves and Lishman go on to argue that

> "community politics is applicable to the running of industry and other places of work. The establishment of the claims of the communities involved in these fields to run their own affairs is no different in principle from the claims of members of a neighbourhood residential community."

So the same principles apply here too. Top-down, hierarchical management structures are precisely what the current UK government criticizes in the state bureaucracy today. Yet the self same management structures can be found in businesses and other organisations across Britain. Liberating communities from these structures to gain more control over their own lives is a liberal aim. This is true whether communities are village neighbours clubbing together to save their local post office or employees of a large corporation working together to improve the management of their factory. It is an idea in the spirit, of liberalism, of empowering communities but also in the spirit of the Conservatives' 'Big Society'.

At its heart therefore this is an idea based on the values of democracy. Just as there are many reasons why we think citizens

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22   Greaves and Lishman, 'The Theory and Practice of Community Politics' (1980)

should have a say in how their country is governed, so there are good arguments that employees should have a voice in the management of firms that have authority over them and affect so much of their lives. Whilst it is true that workers can choose to leave workplaces which they don't like and sell their labour elsewhere, it is similarly true that citizens can leave countries and emigrate to live elsewhere if they prefer to. Both types of movement are difficult and costly to individuals. Such an ability does not, therefore, detract from the argument that they are entitled to some say in the governance of their workplace or country wherever they are.

This ethical argument by analogy to the political realm is stressed by Collins (1997). On the basis that "congruence among the social philosophical assumptions of political, economic, and organization theory is highly desirable"; and that "ethical arguments are superior to economic arguments", he concludes that

> "From an ethical perspective, the authoritarian model [of the workplace] should have been dismissed long ago and the current debate in organization theory should consist of libertarian challenges to communitarian forms of organizational structures and policies."

The workplace equivalent of modern representative democracy is what Collins describes as "participatory management".

In summary, we can distinguish three related pillars supporting the liberal case for workplace democracy. First, the workplace is for most working adults a key community to which they belong; belief in the importance of freedom and empowerment of communities more generally must make us committed to liberating workplaces in particular. Secondly, there is an issue for democracy in our society at large; allowing people to experience more democratic working environments might contribute to revitalizing our national democracy. And thirdly, as discussed in the introduction to this paper, there is the argument that workers have a right to some influence in the running of their employer because of their status as key stakeholders which are highly dependent on the long term success of their employer – more so than either consumers or shareholders.

These ethical and political arguments should indicate why this is a matter that deserves attention and perhaps government action. But there is also a strong economic case for greater employee participation.

Improving firm performance – the economic case

Most studies in the UK have - understandably, given the lack of formal structures of employee participation in the UK - looked at the performance of employee owned firms or those with substantial employee ownership, rather than those simply with employee participation. Nevertheless these studies have shown that there is a strong positive relationship between employee ownership and participation and firm performance.[23][24]

Those few studies that have looked at employee participation and consultation (without employee ownership per se) have generally shown a positive effect on performance. The studies have generally looked at overseas experience given the lack of formal employee empowerment in the UK. Vlachos (2008) showed in a study of Greek firms the effect of decentralised decision-making and information sharing on performance.[25] From Spain, Ordiz and Fernandez (2005) used a regression study to find the circumstances in which high employee involvement practices are most effective.[26] From Turkey, Kaya (2006) finds that human resource management practices account for up to 9% of variation in firms' performance.[27] Riordan et al. (2005) find in a study of insurance companies that employee involvement has positive effects on financial performance, morale and turnover.[28] And Harrison and Freeman (2004) weigh the advantages of workplace democracy against the cost in time and resources required to sustain it and conclude there is a net social benefit.[29]

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23   Lampel et al, 'Model growth: do employee-owned businesses deliver sustainable performance', Cass Business School, (2010)

24   "The employee ownership effect: a review of the evidence", Matrix Evidence, 2010

25   I. Vlachos, 'The effect of human resources practices on organizational performance: evidence from Greece', Int. Journal of Human Resource Management 19:1 (2008)

26   Ordiz and Fernandez, 'Influence of the Sector and the Environment on Human Resource Practices' Effectiveness', Int. Journal of Human Resource Management 16:8 (2005)

27   N. Kaya, 'The impact of human resource management practices and corporate entrepreneurship on firm performance: evidence from Turkish firms', IJHRM (2006)

28   Riordan et al, 'Employee involvement climate and organizational effectiveness' (2005)

29   Harrison and Freeman, 'Is Organizational Democracy Worth the Effort?' (2004)

These findings hold true for a range of measures including productivity, sales and profits. Whilst there have also been a number of inconclusive studies, the number suggesting that more participation leads to negative outcomes are vastly outnumbered by those showing a positive relationship.[30] At the very least it seems that workplace democracy doesn't hurt the competitiveness of firms, and in many cases it would appear to be actively beneficial. In particular, the correlation between workplace democracy and productivity seems especially strong:

> "Profit-sharing, worker ownership, and worker participation in decision-making are all positively associated with productivity" (Doucouliagos, 1995)

It is not surprising that giving employees more say in the running of their businesses leads to greater productivity. Employees in most organisations have a greater understanding of what happens on the 'shopfloor' than their managers. In many cases they not only have a clearer awareness of the problems they face in their daily work, but also have in mind a number of ideas about how their work could be improved. The more that management can connect with workers, the easier workers will find it to pass these ideas and information upwards.

In non-democratic work environments, workers can be reluctant to share valuable information with decision-makers. It is argued that if workers do not trust managers to share gains in productivity with them, they will not be as keen to share the information that enables such gains to be made. A working environment where workers feel they have more control over how the profits are shared out within the firm are going to be much more willing to take steps to try to raise productivity.

The existence of formal democratic institutions like work councils, or workers who are empowered in other ways encourages the sharing of information and raising of concerns, and provides a forum in which staff can do so with the confidence that they will neither be ignored nor punished for doing so. Making senior managers accountable in some way to all their staff can guard against fears of negligent governance or wilful blindness more

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30   Marsden and Canibano, 'An Economic Perspective on Employee Participation' in 'The Oxford Handbook of Participation in Organisations' (2010), p155

than accountability simply to shareholders.

Breaching Disconnect, helping wider engagement

A second way in which employee empowerment can benefit firms is by improving employee's motivation and the degree to which they value their organisation and identify themselves with its goals. The *'Sunday Times Top 100 Companies to Work for'* found 'feeling listened to' to be the single most important factor in influencing how much an employee valued their organisation. Employee empowerment therefore is important not just to enable better decision making, but because of the effect it can have on the attitudes of employees.

The 2009 BIS report 'Engaging for Success' focused on this in the context of what it called 'employee engagement'. 'Engagement' can be an ambiguous term associated with a wide range of positive indicators, but can here be broadly described as meaning that employees feel connected with their employers and their work, are enthused to turn up to work every day and to do a good job. The 2009 report has already shown that employee engagement is (unsurprisingly given this definition) associated with improved performance in organisations. But what really matters is what can be done to boost levels of engagement. To quote from the BIS paper, research by Towers Perrin-ISR shows that of

> "seventy five possible drivers of engagement the one that was rated as the most important was the extent to which employees believed that their senior management had a sincere interest in their well-being. This same research goes on to ask employees whether they think their senior management actually exhibit this attitude and behaviour. Thirty-nine per cent said they did not believe this would be the case, 32 per cent were neutral and only 29 per cent felt that their senior management was sincerely interested in their well-being."

Knell and Philpott [31] report that evidence suggests that it is a shared sense of organisational purpose among employees which is a key driver of sustainable organisational purpose

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31   John Knell and John Philpott, 'Up to the Job', Demos (2011)

whereas an imposed common purpose only creates cynicism and resistance.

The best way to convince workers that managers really do have their interests at heart is by setting up practices that gives some power to workers themselves. Where workers have significant influence in decision making in areas that affect them, such as their own skill development or work design, they can directly make sure that their own well-being is of primary concern. As a result they can make sure that the work environment is one which they value and which motivates them.

There is one other element of feeling valued that is also important however. According to the 'Workplace Democracy Association',

> "The foundation of workplace democracy is based on one of the first lessons that we learn as young children – the importance of sharing. There are three things that successful democratic workplaces share amongst their employees: information, discretion, and rewards."[32]

The advantages of sharing information and discretion have already been outlined. But the third element, sharing of rewards, also deserves a mention. There are always concerns, particularly during times of economic downturn, that workers share disproportionately in the costs of failure compared with their managers, via layoffs or falling real wages, whilst not receiving their fair share of rewards when companies do well. Employee share ownership schemes are the standard attempt to try and overcome this problem, but simply implementing a share ownership scheme without taking steps to improve employee participation in decision making, information sharing or other areas will fall flat. These factors must work together if employees are to be convinced that they are being genuinely valued by managers.

Perhaps one of the clearest expressions of this issue is current concerns about pay differentials, as examined by the 'High Pay Commission', an independent inquiry set up by the Compass think tank. The inequitable distribution of the gains from growth

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32   'What is Workplace Democracy', home page of Workplace Democracy Association website http://workplacedemocracy.wordpress.com, accessed on 06/01/2012

and success between top and bottom earners is a symptom of the same theme of disconnect between top managers and ordinary employees that this section has already highlighted. Moreover, it is one of the areas that employees are most keenly sensitive about as it drives home to them how little say they have in the management of their own organisations. Worse still, all the evidence shows that this pay gap is rapidly and consistently widening.

> "Analysis by the High Pay Commission shows that between 1997 and 2007/8 income for the top 0.1% of the population grew by 64.2% while the income of a person in the 50th percentile only grew by 7.2% over the same period"[33]

The constantly widening pay gaps are clearly an important matter to address if employees are to feel genuinely valued by, and able to engage with, their employers. The current levels of high pay can also risk distorting executive incentives, including incentives towards excessive risk taking and decisions not in the long term interests of the organisation. But it is not a problem that lends itself to an easy solution. The government has, understandably, been reluctant to intervene directly to dictate salary levels to the private sector; this would doubtless be seen as a highly illiberal move.

Just as these widening pay gaps are symptomatic of a lack of employee participation and workplace democracy, so too they can be combated through precisely those mechanisms. There have been proposals to place employee representatives onto remuneration committees to put procedures under proper scrutiny where otherwise hefty pay awards are often simply waved through with little consideration by the non-executive directors who normally decide them. But if this principle is accepted there seems to be no good reason why this could not be further extended to wider worker representation in other key

company decisions.

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33   High Pay Commission, 'More for less: what happened to pay at the top and does it matter' (2011)

: 4: Forms of participation

As already discussed, some participatory institutions offer more 'genuine' empowerment of employees than others. Effective employee participation can take a variety of forms, and an appreciation of their differences is useful in helping organisations to implement policies that are well suited to their particular circumstances.

Apart from trade unions and employee share ownership / cooperatives (both slight unique cases which will be considered separately) there are numerous approaches, many of them sharing similar features but difficult to classify, from 'dispute resolution panels' to 'joint consultative committees' or 'joint industrial committees', 'work councils' and 'staff associations'.

Even in the 1970s, Sorge referred to the *"bewildering variety of industrial democracy institutions"*[34] then in operation – a level of variety which has only increased in decades since. For simplicity, we will consider only two other specific proposals: the direct election of employee representatives to boards or other management positions and the formal continental model of work councils; and the general category of other, non-statutory systems of consultative bodies which we will classify together as 'informal participatory procedures', including concepts such as 'quality circles'. Finally, we present two case studies to show how BT and Tesco have promoted employee participation and workplace democracy.

Informal Participatory Procedures

Quality circles

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34   A. Sorge, 'The evolution of industrial democracy in the countries of the European Union' (1976), p278

Quality circles are one form of employee participation that has gained significantly in popularity over recent years. The 2004 'Workplace Employment Relations Survey' found that *"Around one-fifth (21 per cent) of workplaces had groups of non-managerial employees that met to solve specific problems or discuss aspects of performance or quality. The equivalent figure in 1998 was 16 per cent"[35]*

They tend to be small groups of employees who meet on a regular basis. Often they are free to set their own agenda and discuss any aspect of the organisation's activities that interests them, but generally they focus on matters concerning productivity, performance and product/service quality. This is a form of participation designed by managers directly for the benefit of the firm which also explains why they are widespread.

Obviously this opens them to criticism for being overly management oriented, not really providing democratic participation. Some employee groups deride them as tools for providing information to managers without in any way empowering workers. However, there is some evidence to suggest that through their flexibility they are slowly growing in impact and ability to act in the interests of workers, as this quote from a recent study shows:

> *"Quality circles and other forms of small group problem solving have become commonplace in the Anglo-American world. These management driven forms of involvement are designed to serve employer goals of improved productivity and flexibility. However, our data suggests they increasingly meet the desire of workers to be involved in the things that relate most directly to them"[36]*

Team working

Another form of employee participation is team working. Dividing the workforce into semi-independent teams and allowing them to manage many aspects of their own work can be effective at improving productivity – it encourages workers

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35   Kersley et al, 'Inside the Workplace: First Findings from the 2004 Workplace Employment Relations Survey' (2006)

36   Boxall et al, 'the management of managers: A review and conceptual framework' (2007), p215

to take responsibility for their own work, to work together and gives them the freedom to be creative in finding solutions to problems they face.

> "The Survey of Employees indicated that greater levels of autonomy are viewed positively by employees: those working in teams with greater autonomy were more satisfied with the amount of influence they had over their jobs than team-workers who were given limited freedom or responsibility."[37]

The downside is that such a model of autonomous team working groups only lends itself to certain kinds of organisation which don't rely on too much co-ordination or complex production processes. In addition the survey also showed that only 6% of workplaces with teamworking had been given the autonomy to appoint their own team leaders – so team working often has its limits in empowering employees. There are also some aspects of an employee's interests – notably profit sharing and the future of the organisation – that simply can't be devolved to this level and need higher level representation.

Joint consultative committees

The Joint Consultative Committee is roughly the UK's equivalent of the 'works councils' found on the continent. They generally operate at company level, with a formal constitution, including managers and worker representatives elected for a fixed term. They have regular meetings and discuss matters of mutual interest which are not covered by trade union negotiations, either because they fall outside their scope or because trade unions are not present.

They differ from their continental counterparts in that they have no statutory protection, nor do they generally have any formal powers of co-determination. They are ultimately negotiating forums, not decision making bodies. Nevertheless, they are among the most significant forms of participatory body that exist today in the UK. However they have been in a gradual decline in the UK for some time. In 2004, the year that the Information and Consultation of Employees Regulations were introduced in the UK, the Employee Relations Survey reported of JCCs:

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37   Kersley et al, 'Inside the Workplace: First Findings from the 2004 Workplace Employment Relations Survey' (2006)

"They were present in 14 per cent of workplaces with 10 or more employees in 2004. A further 25 per cent of workplaces did not have a workplace-level committee, but had a consultative forum that operated at a higher level in the organisation. The equivalent figures in 1998 were 20 per cent and 27 per cent respectively."[38]

Works councils

Many continental countries operate a system with far more formal and uniform bodies, all known in English as works councils, though in practice there is considerable difference between a German *Betreibsrät* , French *comité de entreprise* and Italian *'rappresentanza'*. The key defining features of these bodies are that they are composed exclusively of elected employee representatives (with no management representatives), at least some of whom tend to have full time release from normal work to carry out their representative duties, they operate on the individual plant or firm level (as opposed to trade unions which can operate at the industry level) and are engaged in consultation and negotiation with managers over a range of issues and, in some cases where they are strongest, a form of co-determination.
In most cases their existence is mandated by law for any employer over a certain size and regulated in their composition and powers, thus tending to follow fairly uniform structure and patterns within each country. They tend to have a statutory right to a wide range of information and a provisional veto on issues such as hiring and firing, changes to wages and working hours.

The relationship between works councils and trade unions varies between countries. In Germany a tripartite system operates between works councils, unions and managers exercising co-determination in decision making. They tend to be mutually reinforcing with unions, as over 75 percent of council members come from a trade union, often on a single slate. In Scandinavia, an area with high union membership, unions have near complete control over works councils (in Sweden they are essentially the same organisations, where the '*förtroendevala*' or 'workplace stewards' provide the only mediation between employer and employees).

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38   Kersley et al (2006)

Even in countries where works councils are nominally independent of unions they nonetheless remain at least partially dependent on them for support and legitimacy. This can, of course, be a weakness – where they are largely controlled by unions they are less able to represent the interests of non-union members; obviously a problem given the growing majority of workers who no longer fall into this category

There is also a variation between countries in the extent to which the councillors are seen as 'delegates' or 'representatives' of the workforce. More often the latter is true, in the model of parliamentary democracy, with no power of recall existing until re-election (the same is true of board-level representation – see below). This model is sensible as it ensures that managers can have confidence in employee representatives when negotiating with them, without fearing that they could be replaced at short notice by dissatisfied workers.

There are serious obstacles to the implementation of European model works councils in the UK, not least due to the opposition they face from vested interests;

> "British employers overwhelmingly regard mandatory councils as a challenge to their own managerial prerogatives, and most unions have also considered them a threat to their 'single channel' of representation"[39]

Even among advocates of workplace democracy, there is a fear that, with increasing decentralisation and more sophisticated specialisation and training in many industries, employees become increasingly detached from their works council representatives who become 'co-managers' in their own right. Another concern is that globalisation means that managers are less able to negotiate with works councils on a national level, as many firms will be increasingly multinational.

Direct democratic participation - elected managers

A few highly innovative firms have experimented with extremely egalitarian management approaches. One option is to have managers directly elected by the employees that

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39   Gumbrell-McCormick and Hyman 'Works Councils: The European Model of Industrial Democracy' in 'The Oxford Handbook of Participation in Organisations' (2010), p288

they manage – an approach that guarantees a high degree of engagement between the two and a management that workers are happy with. There are, however, significant risks in such an approach. Popular individuals may find themselves installed in management positions for which they are unqualified (though shortlisting by other, senior, management could reduce this), or managers could spend too much time currying favour among employees rather than doing less popular parts of their job. High turnover is also a concern.

A similar approach can work well in some circumstances, however. W. L. Gore & Associates, Inc., for instance, operates on an entirely non-hierarchical basis described as a 'lattice' organisation. All employees are equal 'associates' operating in self-managed teams; they choose willingly to follow 'leaders' who show initiative, rather than having 'managers' appointed for them. In this particular case, this highly democratic approach works remarkably well – W.L. Gore & Associates has been in the US Fortune "100 Best Companies to Work For" for 13 consecutive years, and its European operations feature in similar lists in the UK, Germany, France and Italy.

Gore's line of work, designing and manufacturing a range of different products from a known input, fluropolymers, is particularly well suited to this approach which favours experimentation and creativity over co-ordination, planning and oversight.

Employee board members

Rather than choosing managers, another way in which employees can be involved is having employee representatives sit alongside directors at board level. These could be directly elected, or elected through unions or works councils. In Germany, for instance, every firm with over 2000 employees automatically has works council representatives on its supervisory board. Direct election may be preferable, in cases where union membership is low, so as not to exclude members of the workforce from the democratic process.

There is a case for saying that employees deserve representation at this level, given that they are one of the main stakeholders in any enterprise and have a clear interest in ensuring that it is

governed well from the very top. Nor are these ideas particularly new to the UK:

> "Interest in industrial democracy…grew in the 1960s and 1970s, culminating in the UK with two initiatives sponsored by the Labour government (1974–9): the Bullock Report, which investigated how a system of worker representation could operate at company-board level (Gold, 2005), and an attempt to introduce union-nominated trustees onto the boards of UK pension funds (Gold, 2008). Neither initiative won wholehearted union support, and both collapsed in 1979 on the election of a Conservative government."[40]

Pension funds have since secured member representation, but plans for worker representation at company board level were never revived. Yet elsewhere in the EU such practices are the norm. Even in the UK there are isolated examples, mainly in the public sector, of employee representation at this level – many schools have teachers among their governors, universities often have staff members on their governing bodies and the boards of NHS Foundation Trusts include staff members as well.

Board representation is not necessarily a panacea. Many key decisions are not taken at board level, and conflicts of interest can potentially arise when boards discuss matters of industrial relations (though employee representatives can by convention absent themselves from such discussions). There are also concerns that employee board members, who may well take considerable time off from normal work to fulfil these duties, may end up having more in common with managers and directors than those they are meant to represent. There is evidence (largely from other countries) that employee board members can be effective at supporting other forms of workplace democracy within an organisation.

> "European practice suggests that ERBs [Employee Representatives on Boards] may play effective roles in corporate governance, to the benefit of management, employees and organisations as a whole, in the private as well as public sectors. The European experience

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40   Sayce and Gold, 'Revisiting industrial democracy and pension trusteeship: the case of Canada', Economic and Industrial Democracy (2011), p481

> also suggests that ERB works best in association with other extensive forms of employee participation, such as works councils and union representation"[41]

However it is important to recognise that there would be important implementation issues if this were to be adopted in the UK. Employee Board members work well within a two tier Board structure with a supervisory board and an executive board, as is the case in many European countries. The UK tradition is for there to be a single tier board containing executives and non-executives. Whilst not impossible this does make employees on the board somewhat more problematic. Secondly within current UK company law, employees on the board cannot be "representatives" of the interests of employees. Once they are on the board they have a fiduciary duty under Section 172 of the Companies Act 2006 to act in the way he/she considers, in good faith, would be most likely to promote the success of the company for the benefit of its members (ie shareholders in the case of a company limited by shares) as a whole, and in doing so have regard (amongst other matters) to the interests of employees.

Mutuals and co-operatives

Perhaps the most obvious types of organisation to demonstrate workplace democracy are those that are largely or entirely owned by their employees. Mutuals, co-operatives and other employee-owned organisations are not the main focus of this paper; nevertheless they are clearly concepts closely related to workplace democracy and merit at least a brief mention, not least because they form a key part of the governments open public services agenda.

Firstly, it is obvious that worker owned businesses tend to be more democratic in their management styles. The International Co-operative Alliance lists "democratic member control" as one of its key five principles of co-operatives worldwide.[42] At the very least, as shareholders, employees have the power to elect their own directors. They also tend to benefit from a more

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41   Markey et al, 'Worker Directors and Worker Ownership' in 'The Oxford Handbook of Participation in Organisations' (2010), p253

42   International Cooperative Alliance, 'Principles' on ICA website, http://www.ica.coop/coop/principles.html accessed on 06/01/2012

democratic ethos, with employees of different pay-grades often having equal status as 'associates' or 'partners' (as in the John Lewis Partnership). That said, the two concepts are distinct.

Evidence shows that workplace democracy and employee ownership are complementary ideas. They work naturally together and their positive effects are mutually reinforcing. One study into the effects of stock-ownership programs in the US on productivity concludes that firms *"need both employee-ownership and democratic decision making to improve performance"*.[43] Similarly,

> "A 1993 survey of 188 companies conducted by the Washington State Office of Trade and Economic Development found that employee-owned firms grew no faster than conventional companies unless they gave workers a voice in management…But firms that put the three together grew about 12% faster than their competitors."[44]

Promoting more of both these things would seem to be a good idea. The government is apparently already keen on strong action to promote and support mutuals and co-operative enterprises, particularly in the public sector:

> "You can't just talk, like people have in the past, about wanting more mutuals and co-ops and hope somebody, somewhere gradually gropes towards making it happen. You really need to push it."[45]

Case study: BT

BT has a large and highly unionised workforce of 98,000 people with union membership in the UK around 90 percent for non-managers represented by CWU and 50 percent for managers represented by Prospect. There is regular contact involving consultation and information exchange. The company's success as an employer is characterised by positive and constructive industrial relations. Its dual approach of consultation with the

43   Brent Kramer, 'Employee ownership and participation effects on outcomes in firms majority employee-owned through employee stock ownership plans in the US', Economic and Industrial Democracy 31 (2010)
44   'We're All the Boss', Time Magazine, April 8, 2002
45   Francis Maude, 'Mutuals Will Empower Public Sector', Guardian Comment is Free, 12 August 2010

unions and an active direct approach to employee engagement ensures there is a significant amount of employee involvement.

In addition, BT supports dialogue among employees, their representatives and management in the UK, Ireland and continental Europe. This is through the BT European Consultative Council (BTECC) which meets four times a year and focuses on BT Group performance and strategy, jobs and employment plans, as well as the commercial and regulatory factors affecting BT's operations. BTECC also discusses other relevant issues such as training, health and safety, environmental stewardship and corporate responsibility. BT has separate works councils in European countries outside the UK.

The communications infrastructure provided by BT is extensive, with channels ranging from social media tools like office talk to leadership round tables and 'roadshows'. There is a drive to increase the frequency and quality of conversations between leaders and people. A key employee engagement tool is BT's CAREagile survey programme which invites 50,000 employees every three months to give their feedback on their employee experience and to share ideas and suggestions. CAREagile is a key channel for input that is responded to by senior leaders and local managers.

When feedback is given, managers discuss the ideas put forward with their teams and together actions at the local level are agreed. Senior leaders use the insight gleaned from the employee survey to inform improvements to their business unit or function. They make sure that themes in the feedback are acknowledged in their broader communications. The results from the CAREagile surveys are discussed with the unions.

Other mechanisms like the "My Customer Challenge Cup" and a new ideas scheme make it easy for BT staff to air their views and to change things for the better in their organisation.

Employee share-ownership is encouraged, and for staff shareholders there is a special meeting before every AGM where workers can be consulted before agenda points are put to the rest of the shareholders. BT also runs a series of "People Networks" for various groups of workers within the company, including women, those with disabilities and other minority groups. Each of these networks has both an elected

committee, which represents its members in all policy matters across the company, as well as a senior manager responsible for advocating on the committee's behalf and ensuring that its needs are considered.

BT uses the technology based nature of its work to connect with employees through Facebook, Twitter and its online magazine "Your View". This encourages free flowing conversation between employees and allows them to propose debates on topics of interest. Moreover, the BT CEO regularly goes online to speak with interested employees, to be challenged over points of contention and to take feedback about corporate practices. The aim of these online forums is to encourage more people to involve themselves in discussions about the company so that there will be greater employee participation through other channels as well.

Finally, in the area of flexible working BT has around 9,000 home based workers, mainly from management grades. Employees have the opportunity to request different types of attendance arrangements. Provided these meet the needs of the business, they are generally approved. Currently BT operates around 30 different attendance arrangements including part-time working, four day weeks etc, although in any line of business the number of arrangements is likely to be less. Allowing people greater flexibility in how they work is one of the key issues that workers care about and can have a powerful impact. This is an important way of engaging the workforce and gaining commitment.

A notable sign of this successful approach to employee relations is that only a single day has been lost to strike action over the last 20 years. This is low when compared with Royal Mail, for example, from which both BT and its unions separated at the start of the 1980s. BT also reports a significant benefit in the form of cooperation to changes in working practices needed to meet the challenges it faces as a business operating in a very competitive market. The company has succeeded in maintaining levels of motivation amongst its employees during times of significant change. It attributes this to the consistently open and honest conversations held between leaders and people.

Case study: Tesco

Tesco is a large employer with a moderately unionised workforce, with 58 percent being USDAW members. Tesco enjoys a good relationship with USDAW, but does not simply rely on the union as a bilateral negotiating partner to represent the views of all its employees. Instead, Tesco makes use of innovative structures to involve both its unionised and non-unionised employees and gives them all a voice inside the company.

The primary source of real employee participation in Tesco comes through a series of forums. In effect, these operate like a series of tiered works councils. Each Tesco store elects several staff representatives to sit alongside their local USDAW shop steward on a store forum. The forum meets three times a year to discuss issues of concern to the local workforce and to put these concerns to management. The local forums each elect a representative to sit on a regional forum which performs a similar role on a larger scale. Each regional forum in turn elects a representative to sit on the national forum, representing all UK workers concerns on large-scale issues and putting these directly before Tesco's senior management. The national forum also forms working parties to address specific issues, working with USDAW and management directly to affect Tesco's policy in these areas. Products of this in recent years include Tesco's attendance policy and its new pay award package for staff (including a minimum £7 per hour wage), as well as other issues of concern to employees such as the provision of paid leave for organ donation.

Like many large employers, Tesco also has several voluntary in-company 'networks' to represent various interest groups such as women, the LGBT community and ethnic minorities, across all areas of company policy. It also has various listening mechanisms through which it can receive input from employees, including an annual 'Viewpoint' survey to get an overview of employees' concerns and quarterly 'Pulse' surveys, which deal in detail with more specific issues. These surveys are anonymous and the results are used by senior management to drive changes in the company. These listening mechanisms, however, are quite one-way in their approach, taking suggestions from workers without providing feedback.

The benefits for the business

Through the staff forums, Tesco receives invaluable feedback from staff on business strategy and employee policy initiatives. This gives Tesco the ability to change and innovate, allowing the business to stay ahead of its competitors. The forums can act as an early warning system if something is not working properly. They also help to identify good practice.

The forum process gives staff a better feeling of ownership and belonging to the business. This improves staff commitment and yields higher productivity.
Over the last decade Tesco has become the number one retailer in the UK with some of the best pay and conditions in the sector.

The benefits of the partnership to the workforce

Members of staff have the opportunity to have a real say on pay, policies and other major business decisions. They have some of the best pay and conditions in the retail industry and have a clear, transparent and well defined pay structure.

USDAW views the partnership agreement that it has with Tesco (of which the staff forums are an integral part) as being of benefit to the business, employees and the union and enabling employees to have a say on issues extending beyond just pay terms and conditions.

This system of employee involvement pre-dates all of the relevant legislation, such as the 2004 Information and Consultation of Employees Regulations, and despite its resemblance to a system of works councils is nonetheless clearly of a unique structure designed to suit Tesco's circumstances. It provides another example of good practice that would be undermined by the imposition of any 'one size fits all' model of employee empowerment.

: 5 The role of trade unions

Why cannot employee's voice simply be heard through the trade unions? For much of the last century trade unions were seen as the natural forum through which employees could represent themselves, safeguard their rights and influence their employers. Unlike in the US, where trade unions are often seen as necessarily hostile bodies, narrowly concerned with higher wages and often disruptive of economic efficiency, Europeans have tended to regard trade unions as social partners for businesses, concerned with a broader range of issues and fulfilling a much more significant representative democratic role. The trade union was once the pre-eminent intermediary between employer and employee for all significant matters.

A tension still exists for trade unions, however, over quite how closely they should be prepared to engage with employers. The majority of initiatives towards greater employee participation over the last three decades has tended to come from employers. Whilst trade unions can embrace these initiatives and participate in them itself as the representative of employees (for instance by placing union members onto management committees or workers' board seats), it is often highly reluctant to do so.

There is a tension here for unions in the decision over whether it is best to remain separate from employers and risk marginalisation, or involve themselves in participatory management to reap the rewards of real influence and ability to shape the working environment but risk the subversion of trade unions to employers' interests and values.

> "A key issue for the unions was their grounding in a defensive mentality which prioritized traditional forms of collective bargaining for better terms and conditions – a perspective that has characterized both the UK and Canada (Payne and Keep, 2005; Weststar

and Verma, 2008). Unions harboured concerns over 'incorporation', fearing that their representatives might be ideologically or practically subverted into becoming managerial tools (Schuller, 1985: 79)." [46]

Alternative forms of workplace democracy can offer an escape from this dilemma. Parallel systems of work councils or quality circles, for instance, can allow workers to engage with employers whilst allowing trade unions to remain distinctly 'outside' firms to practise collective bargaining in areas such as wages, and to represent individual workers in the case of disputes with the company.

This issue is made all the more pressing because of falling union membership in the UK. In 2010, trade union membership fell by 2.7 percent to 6.5 million people, its lowest level since the Second World War, with union representation down to just 26.6 percent of all employees.[47] However even this low figure disguises a wide disparity between union representation in the public and private sectors. Whereas one in two public sector workers are members of a trade union only one in seven private sector workers are members. As unions have declined, both in terms of their membership and the legal tools available to them, so they are less able to represent employees in participatory management schemes. Non unionised workers may still, however, be very willing to engage in in-firm participation via other means – indeed, evidence suggests that as unions have been declining, the number of workplaces that practice non-union forms of representation has been increasing, and at a faster rate. This is not something that needs to be reversed – rather we should embrace this trend and focus our efforts on making sure that the new forms of employee representation work effectively to secure the fundamental interests of workers.

Non-union systems of employee representation have other advantages. They can alleviate concerns that greater workplace democracy simply places more influence into the hands of trade unions as institutions rather than the workforce at grassroots level. Alternative systems can also be less prone to conflict and

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46   Sayce and Gold, 'Revisiting industrial democracy and pension trusteeship: the case of Canada', Economic and Industrial Democracy (2011), p481

47   James Achur, 'Trade Union Membership 2010' National Statistics, Department of Business Innovation and Skills

friction between workers and managers than those that rely on the same structure as a traditionally adversarial trade union. According to Gregor Gall,

> "Unions predisposed to an oppositional ideology are more likely to believe members' interests will not be best served by participation"[48]

Bodies with oppositional ideologies of this kind are clearly not likely to make good partners for employers looking to set up systems of participatory management – instead of functioning workplace democracy they risk creating deadlock in the system designed to foster engagement and cooperation. Workplace democracy can run more smoothly and better engagement between employers and employees can take place if workers can persuade and vote through their wishes on an internal committee, board or works council then resort to disruptive industrial action in the face of an implacable employer.[49]

There are some fears that allowing alternative, more direct, forms of employee participation might supersede the need for trade unions altogether, not least from trade unions themselves. In its 2007 published guide, Unite advises its members to reject any suggested system of non-union information and consultation that might

> "...undermine union representation arrangements, e.g. by guaranteeing non-union I & C representative places in bargaining units where the union is recognised" or "undermine union information and influence by providing for company representatives to meet with I & C Reps more frequently than they meet with union negotiating bodies"[50]

Should trade unions be entirely replaced by internal systems of workplace democracy there is, of course, a risk that the ability of workers to secure reasonable wage demands through collective bargaining might be undermined,. Eventually, however, if true employee empowerment could be achieved (as opposed to pseudo-participation), where workers had genuine influence

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48 Gall, 'Labour Union Responses to Participation', in 'The Oxford Handbook of Participation in Organisations' (2010), p363
49 Kersey et al 'Inside the Workplace', BIS (2006), Figure 4, Page 17
50 Unite the Union, 'The Information and Consultation of Employees Regulations 2004: Guidance for Unite Amicus Section Officers and Workplace Representatives' (2007)

on decision making bodies, there is no reason why wage determination (and board remuneration) should not fall within the purview of such bodies. Indeed, given current trends it seems that there is not so much a case of workplace democracy displacing collective wage bargaining, as a collapse of collective bargaining into unilateral management decisions that workplace democracy is desperately needed to fill.

> "In 2004, 35 per cent of employees had their pay set through collective bargaining, down from 38 per cent in 1998. The shift was largely accounted for by a rise in the percentage of employees whose pay was set by management (up from 49 per cent to 57 per cent)."[51]

Whilst unions need to fear less from the offers of participation from employers , employers also need to do more to calm such fears, not least by ensuring that the offers of participation it makes offer a genuine prospect of workplace democracy and are not just a superficial veneer of legitimacy. The experience of employee participation in companies such as Tesco and BT shows that employee participation can be complementary to the role of the unions and in no sense threatening. Indeed if union representation in a firm is very high it may be the case that representation through the union may be an appropriate mechanism for employee voice to occur. There is precedent for this. The Takeover Panel code gives a formal recognition of the union to act on behalf of the workforce

> "An employee representative is:
>
> (a) a representative of an independent trade union, where that trade union has been recognised by the offeror or the offeree company in respect of some or all of its employees; and
>
> (b) any other person who has been elected or appointed by employees to represent employees for the purposes of information and consultation.
>
> There should be no reason why Britain cannot pursue a system of greater employee voice (irrespective of whether employees are union or non-union members) whilst retaining an active role for the trade unions;
>
> "the rise of Human Resource Management, we argue,

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51   Kersey et al 'Inside the Workplace', BIS (2006)

is not the cause of union voice decline. HRM and most forms of voice – dual channel and non-union voice – act as complements rather than substitutes at the workplace level"[52]

"An extensive transnational survey reveals that both works councils and JCCs [Joint Consultative Committees] are positively associated with a union presence; there is no evidence from this sample that either is used to any significant extent as a substitute for unions."[53]

If, the decline of trade unions in the workplace does continue it will not be because organisations have adopted other forms of employee empowerment. Rather such alternatives will become all the more important in representing employees, and all the more important that the government takes note and makes sure than they are done well.

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52   Gomez et al, 'Voice in the Wilderness? The Shift from Union to Non-Union Voice in Britain' in 'The Oxford Handbook of Participation in Organisations' (2010), p400

53   Brewster, Wood, Croucher & Brookes 'Are Works Councils and Joint Consultative Committees and Threat to Trade Unions? A Comparative Analysis', Economic and Industrial Democracy 28 (2007), p49

: 6 Overseas experience

Workplace democracy and employee empowerment is much more common in continental Europe than it is in the UK. There has long been a legislative basis for work councils in the Netherlands, France and Germany, and to a lesser extent in Italy and Sweden where they are supplemented by collective agreements.

There is therefore a wide pool of experience to learn from when considering our own approach.

> "… the general approach to social dialogue at a European level contains many useful lessons for Britain. It demonstrates that an IR system can be rooted in a search for compromise. It means institutions that are designed to generate agreement rather than resolve conflict. This requires a cultural change on the part of British employers…"[54]

Germany, more than any other country, has its own particular system of industrial relations that stands in stark contrast to current UK practice. In Germany there is a statutory requirement for firms to establish consultative bodies known as works councils (the closest equivalent being consultative committees in the UK) when requested by workers. Many small firms don't bother, as there is little worker demand for them – not a great concern as in small firms it is much easier for workers to remain in direct contact with managers. Among larger firms, however, very few get away without consultative bodies compared with the UK – the procedures for German workers requesting representation are much easier than is the case in the UK.

The crucial difference, however, is that in the UK these

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54   Taylor, 'A-Z of Trade Unionism and Industrial Relations' (1994) p. xvi; cited in Ackers and Payne, 'British Trade Unions and Social Partnership' IJHRM (1998), p536

consultative bodies *are* generally the full extent of employee representation, whilst in Germany they sit embedded in a much broader culture known as '*mitbestimmung'* or 'co-determination' which the UK conspicuously lacks. One aspect of this is the two-tiered board structure in Germany. In the UK limited companies are managed by boards of directors elected by shareholders. In Germany, executive control of all limited companies is vested in a management board which is in turn elected by a 'supervisory board'. This second board has no equivalent in the UK – it consists by law of 50% shareholder elected representatives and 50% employee representatives elected through the works councils, for all firms employing over 2,000 workers. As well as electing and supervising the management board which handles the day-to-day running of the company, the supervisory boards also must approve any major decisions including investments, raising capital, plant closures, major redundancies and takeovers.

In this way both of the major stakeholders in limited companies – the owners who supply the capital and the employees who supply the labour – can supervise and hold to account the management and ultimately have joint control over the enterprise. This clearly has benefits not only in terms of better representing employee interests but can also have wider economic benefits. As employees tend, on the whole, to have significantly longer-term interests than shareholders, their presence on supervisory boards tends to make the outlook of German firms more long-term than their UK counterparts.

> *"Company goals, less orientated towards immediate profit and dividend payouts, reflect Germany's distinctive financial context and its ownership structure; but also a set of values distinguished by long-term, almost vocational, commitments made by individuals to their particular organizations."*[55]

This is certainly no bad thing at a time when many businesses in the UK seem to be focused on short-term profits at the price of long-term stability.

As to other reported benefits of the German model of co-determination, there is increased worker involvement and

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55   V. Papadakis and T.P. Barwise, 'Strategic Decisions' (1998), p108

engagement with their employers at all levels, as well as more harmonious industrial relations. In practical terms this could contribute towards the high productivity of German workers (something that has been long admired in the UK) and low number of strikes.

Studies of German co-determination have shown that the "presence of a supervisory board with co-determination relates positively to productivity and wages".[56] Meanwhile the number of working days lost through industrial action per 1,000 employees on average between 2005 and 2009 was 23.8 in the UK, compared with only 6.2 in Germany; and this despite the fact that in Germany no ballots are required for workers to take strike action.[57]

The lessons for the UK, however, are less than straightforward. Simply changing our legal framework to require dual rather than single boards would be highly disruptive and would by no means transform the UK experience into that of Germany. It is not simply the fact that Germany has such a dual-board system that makes them successful in this area - other countries, such as Sweden, have a strong tradition of employee participation with only single-tiered boards. Rather, the German system works precisely because the Germans have a deep-rooted culture of co-determination, much of which is not directed by law but is the result of informal cultural norms and attitudes.

Many works councils in Germany have few more formal 'powers' than UK consultative committees, but managers freely choose to consult them far more freely and take heed of their views in a way that UK managers on the whole do not. Frequently companies have employee representatives on their management as well as their supervisory board – human resources or 'labour' directors are often chosen in this way. The relationship between trade unions and employers are habitually much closer than in the UK – wage bargaining takes place at a sector-level by employers associations and sector-wide unions that removes a degree of the hostile stand-offs that sometimes characterise UK industrial disputes. In short co-determination takes place at every level,

56   Franziska Boneberg, 'The Economic Consequences of one-third Co-determination in German Supervisory Boards' (2010)
57   European Industrial Relations Observatory, 'Developments in Industrial Action 2005-2009'

from individual plants to national-level.

It would seem impossible for the UK to move to a German-style co-determination system in a single move, even if the government wanted to. Certainly individual employers could learn good lessons from abroad – the benefits of having some employee representatives at board level might be one, though the legal status of directors and their responsibilities may have to be re-examined to make this more feasible. Laws, of course, can be changed swiftly if necessary, but culture and prevailing attitudes cannot. The UK needs to adopt an incremental approach to this issue and one that takes into account the distinctly 'Anglo-Saxon' culture the exists here. At the very least however corporate law might be changed to enable companies to adopt a supervisory board structure if they wished to do so.

Australia, having more shared culture with us on this issue, may provide some lessons, for what legislation can achieve under these cultural constraints. Historically the legislative position in Australia was UK-style voluntarism. Tribunal bargaining for wages and working hours was the only significant area of employee influence. In the early 1990s the Keating government changed the law to mandate consultation on a much wider range of issues, facilitating and requiring employee participation in these areas unless there was mutual consent not to do so. However, when the Keating government was replaced in 1996, the incoming Conservative government repealed the legislation and reverted to the system of voluntarism.

Data from the Workplace Research Centre indicates that the number of consultative committees rose significantly after the Keating legislation was introduced, peaking at 58 percent in 1999, before declining again to 33 percent by 2003.[58] Despite the apparently delayed response of firms, the impact of legislation here seems clear. The evidence suggests that employees, trade unions and managers were encouraged by government support to come together and work constructively to build systems of participation and, in some cases, co-determination. But once legislative support was withdrawn, such projects gradually collapsed. The lesson for the UK would seem to be that in a country

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58   Forsyth et al, 'Regulating for Innovation in Workplace Production and Employment Systems: A Preliminary Discussion of Issues and Themes' (2006)

lacking a German-style culture of co-determination, legislative support can still lead to effective employee participation. But this cannot go too far too fast, as it takes time for people's attitudes and habits to catch up with legislative changes.

One final point worth noting is that the Keating government in Australia was criticized for failing to "prescribe the means (Structure or processes) through which such consultation was to occur".[59] Legislation designed to push employers towards more employee participation needs to strike a careful balance between being too prescriptive on the one hand, which stifles innovation and forces employers and employees into models not suited to their circumstances, and too vague on the other, to the point of the legislation becoming meaningless and unenforceable.

One example of how this might be achieved would be to follow the example of the 'Societas Europaea' or 'European company' model. These SEs are bound by separate European regulation; more flexible than domestic legislation in any EU country and allowing an opportunity for renegotiation of provisions. SEs have three standard models of employee participation, and it is expected that all new SEs should follow one of them, with an exception for (predominantly British) companies with no prior experience of participation, which can choose to opt-out of the provisions when forming SEs (and generally have done so). Workers can either be represented at board level alongside employers, or in a separate works council of employee only representatives, or by a third option negotiated by common consent of employees and management. Clearly the preference is for the third, negotiated option and the first two models act both as incentives to 'nudge' employers and employees into reaching agreement on such an option and as a fall-back in case of failure.

Despite other problems with the workings of SEs, this particular aspect of their regulation appears to have considerable merit. Current UK regulation could be upgraded to resemble this model more closely. Currently there are 'standard information and consultation provisions' included in UK regulations which represents the default system that must be implemented if

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59   Mitchell et al, 'Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Who and What really Counts' (1997), p203

employers and employees cannot negotiate a preferred system. For example this default procedure could be changed to include board level representation and / or a full consultative works council covering a broader range of issues than at present.

This way a voluntary negotiated arrangement can remain the preferred first choice, but failing that a strong system of worker representation would be guaranteed. This would both provide a higher minimum standard for intransigent employers, but would also make most employers far more willing to come to a negotiated agreement, knowing that the default system triggered should negotiations fail will be much stronger.

: 7: Introducing employee participation: the role of government

If the case for employee participation in the workplace were purely an economic one – that the performance of firms is improved if there is greater employee participation, then it could be argued that whether to introduce greater employee participation should be entirely an issue for firms themselves. Government might have a role as part of economic policy to facilitate and encourage workplace democracy but nothing more. .This is broadly what is happening with the employee engagement agenda arising from the work of David Macleod and Nita Clarke for BIS.

However, if the case for employee participation goes beyond this, as we argued in Chapter 3, that it is also about the fundamental rights of workers in a developed economy to decent working standards, then it is appropriate for government to be more actively involved.

One argument against the government becoming involved in requiring employee participation is that this goes against a fundamental principle of capitalism that the owners of the company are the shareholders who therefore ultimately control the company. This has been the view put forward by the CBI, most recently in its arguments against including workers on the remuneration committees of Boards. According to this argument it is wrong that others should be involved in setting out the future direction of the company, issues of merger, acquisition and disposal **–** these are decisions for executives to make in the interests of shareholders alone. As Milton Friedman argued**:**

> "In a free-enterprise, private-property system, a corporate executive is an employee of the owners of the business. He has direct responsibility to his employers. That responsibility is to conduct the

> business in accordance with their desires, which generally will be to make as much money as possible while conforming to the basic rules of the society"[60]

It is argued that anything else is a violation of basic shareholder property rights. In other words employees and other stakeholders have no rights relating to management decisions whatsoever. As a more recent defender of this view of 'shareholder capitalism' put it;

> "The stakeholder theory, despite its meretricious, supposedly modern language, is really rather reactionary. It belongs to the nineteenth-century world of large-scale industry, big unions, more or less unchanging production techniques, and stagnant social relationships ... It is little more than a sanitized version of socialism."[61]

Many would dispute the extent to which shareholders really do have control over the management and direction of particularly large listed companies. Moreover whilst this is a characteristic of "Anglo-Saxon" capitalism the position is more nuanced in respect of continental European models, and as we have argued there are some advantages flowing from such a model . Indeed if one is seeking to move towards a different form of "good capitalism" it is only right that some of these nostrums are challenged.

Furthermore, even in the current system in the UK the position is rather more complex than the simplistic model set out above infers. It is already the case that in the ownership of firms, through different classes of share, that economic interest can be separate from control. Furthermore the Companies Act 2006 in section 172 acknowledges that Directors of a company in exercising their responsibilities cannot solely have regard to the interests of their members.

> Duty to promote the success of the company

> (1) A director of a company must act in the way he considers, in good faith, would be most likely to

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60   Friedman, 'The Social Responsibility of Business is to Increase its Profits', New York Times Magazine, September 13, 1970

61   N. Barry: 'The Stakeholder Fallacy: Stakeholderism Undermines the Defining Feature of Capitalism: The Exclusive Rights of Ownership' The Freeman 50:3 (2000)

promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to—

(a) the likely consequences of any decision in the long term,

(b) the interests of the company's employees,

(c) the need to foster the company's business relationships with suppliers, customers and others,

(d) the impact of the company's operations on the community and the environment,

(e) the desirability of the company maintaining a reputation for high standards of business conduct, and

(f) the need to act fairly as between members of the company.

Indeed there are calls from many for there to be workers on remuneration committees of Boards and the Department of Business, Innovation and Skills has launched a consultation on curbing excessive executive pay which has this as one of the options. This is effectively accepting the case that there is a role for workers to be involved in some issues concerned with the direction of the company. In our view it would not therefore be such a fundamental change to introduce greater employee empowerment as some would imply

The current legislative framework

Until recently there was little legislation in the UK concerning employee participation in any form. There was interest towards the end of the 1970s in legislating on the issue of workplace democracy, but the arrival of the Conservative government in 1979 led to the recommendations of the Bullock report being dropped.

Non-union forms of employee participation were not illegal (as they largely are in the US under NLRA legislation) but nor were they mandated or strictly regulated (as in much of Western Europe). Employers were essentially free to set up whatever consultative or participatory bodies they wished, or not, so long

as employees agreed to take part.

In 2004 the Labour government introduced the 'Information and Consultation of Employees Regulations' as part of the Employment Relations Act 2004. These were introduced primarily as a response to the EU Information and Consultation Directive (2002/14/EC). They guarantee all employees the right to request that their employer set up a procedure to consult with them over:

> "the recent and probable development of the undertaking's activities and economic situation";
>
> "the situation, structure and probable development of employment within the undertaking and on any anticipatory measures envisaged, in particular, where there is a threat to employment"; and
>
> "decisions likely to lead to substantial changes in work organisation or in contractual relations"[62]

However, in order to trigger the requirement to set up a consultative body, a series of steps need to first be taken by employees, who must secure the support of at least ten percent of the total workforce before they can put their request to employers, or 40 percent in cases where existing consultation mechanisms already exist. Moreover the emphasis of such arrangements is primarily information provision and consultation rather than employees having a truly participatory role in the firm.

It was initially hoped that the EU Directive would go some way towards harmonizing minimum standards of employee consultation across Europe. Finding a common European standard proved almost impossible, however, given variations between countries, and the resulting regulations set the bar very low. Most West European countries already have far more extensive national regulations on workplace democracy and, as a result, have been little affected by this change. By contrast this represented a significant change for the UK, which has historically adopted a 'voluntarist' approach towards workplace democracy.

The adoption of the 2004 Information and Consultation

62　Information and Consultation of Employees Regulations 2004, Regulation 20

of Employees Regulations therefore represented the first real attempt at statutory regulation, guaranteeing rights to consultation. However it has not fundamentally changed the attitude of most UK employers on this issue. The CBI did find a ten percent increase in the number of "permanent information and consultation bodies" in its 2006 employment survey.[63] But in general the number of firms that have adopted new information and consultation schemes as a result of the regulations has been low and the influence of those bodies within the organisations disappointing. Generally employers have established the bare minimum required to comply with the regulations, and even then only when either forced to act or as an attempt to pre-empt more substantial proposals.

> "The limited influence of employee representatives in a number of the observed cases can be attributed to the narrow remit of the ICE Directive, with its provisions being markedly inferior when compared with those of the European Company Statute Directive, in which board-level representation for employees is considered essential. Moreover, the ICE Regulations do not allow for any enforcement of negotiation rights nor do they contain any explicit preference for employees to have any substantial influence in management decision-making."[64]

Meanwhile, a 2005 report by CHA found that *"65% of employees say a lot of the information they receive seems irrelevant…Half say it can be confusing and 40% say it uses too much 'corporate speak or business jargon'."[65]*

Simply throwing information at employees in this way is not particularly helpful, nor does it contribute much to real workplace democracy of the kind discussed in the earlier parts of this paper. One of the reasons why many employers have not implemented any consultative schemes at all can be explained by the trigger mechanism required to mandate them to do so. Given the lack of employer enthusiasm, initiatives generally have to come from the workforce themselves. Yet here there

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63   IRS Employment Review 856 (2006)
64   Sofoklis Sarvanidis, 'The Implementation of Information and Consultation of Employees Regulations in Great Britain', University of Bath (2010), p254
65   Colette Hill Associates, 'A Little More Conversation' (2005), p5

seems to be considerable ignorance among employees of how to proceed – the same 2005 CHA report found that "*Only 13% of employees are aware that the Directive gives them the right to ask their employer for information about the future of their organisation*".

Employers and trade unions, the main forums through which employees receive important information about their work, have shown little enthusiasm in passing on news of this important new legislation. CHA found that *"(88%) have not been told about the Directive by their employers and almost all (94%) have not been told about it by their trade union"* – a shockingly high proportion.

Combine this with the ten percent threshold of employees needed to trigger negotiations and it is not hard to see why take-up has been less than universal. Hall[66] describes the ten percent threshold as *"a tough standard to meet"*. In cases where existing arrangements are already in place, the threshold to trigger an attempt to change them is even higher – 40 percent of the entire workforce must either sign a petition or turn out and vote in a ballot in favour of a change; in many cases an insurmountable obstacle. Moreover, such difficulty in changing consultation systems once set up makes both employees and unions extremely wary of entering into them in the first place, for fear they will find themselves stuck in arrangements that are not to their advantage. The introduction of a cut-off date beyond which pre-existing agreement can no longer be used as an obstacle to new negotiations might help to alleviate this problem.

This is especially true in heavily unionised workplaces, where the unions generally already provide a higher quality of information and consultation functions than those minimally guaranteed in the regulations. Unions have therefore tended to sit back and wait for the initiative of employers or individual workers, which often never comes.

> "With regard to the individual employees, in nonunionised workplaces there is an obvious lack of expertise and therefore, it is not surprising that they

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66   Hall, 'A cool response to the ICE Regulations? Employer and trade union approaches to the new legal framework for information and consultation', IRJ (2006), p461

have not been proactive in triggering negotiation procedures. Even in the workplaces, where consultation councils are not existent, it appears that the threshold of 10 per cent may be a considerable barrier when individual employees wish to initiate the negotiation process"[67]

Experience in the UK shows that both direct regulation and more indirect tools can prove useful. As well as the information and consultation regulations already discussed the UK regulation of employee representation in pension funds is a useful experience to draw on. The UK Pensions Act 2004 imposed a statutory requirement that member-nominated representatives be given a third of seats on all pension trustee boards. This demonstrates that mandating other organisations to allow employee representation is neither unthinkable nor unworkable.

In other areas of policy, mandatory reporting has been found to be a useful tool in persuading employers to adopt more desirable policies without the need for direct regulation. In environmental policy and corporate governance and ethics, many large firms are now required to publish annual reports outlining the current practices they follow and detailing any proposals for future improvement.

A study by Ioannis Ioannou and George Serafeim finds *"evidence for the positive impact of mandatory sustainability reporting on socially responsible management practices."[68]* In other words, organisations that have to report publicly on what they are doing tend to be much more proactive in improving their policy towards what are seen as socially desirable standards. Mandatory reporting on workplace democracy could therefore be an important weapon in the government's arsenal that doesn't involve any changes to direct regulation.

It is also worth noting that managers have been increasingly willing to promote the *"concept of industrial democracy and [employee] participation…as a response to the threat of legislation"* (Cressey et al., 1981: p. 54) on the issue. By talking about this issue and discussing possible proposals, the

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67   Sofoklis Sarvanidis, 'The Implementation of Information and Consultation of Employees Regulations in Great Britain', University of Bath (2010)

68   Ioannou and Serafeim, 'The Consequences of Mandatory Corporate Sustainability Reporting', Working Paper, Harvard Business School (2011)

government can spur private sector organisations into making voluntary changes.

It is disappointing therefore that the government is appearing to move backwards in terms of employee involvement as a result of its proposed changes to company reporting set out in the Consultation Paper on narrative reporting published by BIS in September 2011. This paper proposes that the existing requirement on companies to report on employee involvement through a statement of actions to introduce, maintain or develop arrangements aimed at providing employees with information on matters of concern to them; consulting employees or their representatives on a regular basis; encouraging involvement of employees in company performance, which was introduced through the Employment Act 1982 for companies employing more than 250 employees should be dropped. The rationale given is that the existing requirement generates disclosures which are of little value to investors, employees or other stakeholders, as the rights of employees to information are protected by the Information and Consultation of Employees Regulations 2004

Whilst there is little point in producing information for the sake of it, as discussed above the 2004 Information and Consultation Regulations have had limited take up. At the very least the requirement to report on employee involvement fits within a framework of transparency and establishing the expectation on companies that they should be considering what they should be doing in respect of employee involvement. If it is considered that this has become a "boilerplate" exercise it would seem more appropriate to consider how this might be improved rather than simply to get rid of the requirement.

There are also measures that the Financial Reporting Council could take to amend the UK Corporate Governance Code to require listed companies to establish a policy concerning employee empowerment, in the same way as it is proposing to do for boardroom diversity in response to the Davies report.

: 8. The way forward

If the case for greater employee empowerment was purely an economic one then it could be argued that it is up to the individual firm as to whether it involves employees. However, as we have argued, the beneficial impact of employee empowerment on corporate performance and industrial relations means it should form an integral part of the coalition government's growth strategy, which is seeking to undertake supply-side reforms.

In addition, because we believe that there is a more fundamental right for employees to have a voice in the decisions which affect them in the workplace, this is a further reason for government to have a role to play in promoting employee empowerment. For this reason we set out below a broad approach for government to follow in promoting employee empowerment. The detail of the individual measures will need further investigation to ensure the practicality of their implementation. We are very clear that whatever the detail of the measures required, there are strong economic and political grounds for measures to give employees greater voice in how their companies are run.

However we do not consider that a prescriptive top down approach is appropriate for the following reasons:

: there is much good practice already taking place in companies which has been developed in conjunction with the workforce and in some cases the unions. Imposing a different system from on high would be a mistake. For example, Tesco has developed in partnership with USDAW and its employees a system of workplace, regional and national forums which work well and are similar in many respects to Works Councils.

> It would be wrong and counter-productive to impose a system of Works Councils on top of this.

> : for participation to work well requires a substantial culture change on the part of employers, employees and trade unions. To point to the example of Germany or other countries whilst useful also needs to take into account the different history, context of industrial relations as well as company law. Change cannot happen overnight.

> : the circumstances of some firms will differ so substantially that the pattern of implementation must be tailored to the circumstances of the firm. For example a tiered system of workplace forums might work well in the context of Tesco where there are clear workplace units eg stores and depots compared to a much more dispersed organisation such as BT.

As it will be important to secure a cultural change amongst both employers and employees for employee participation to be fully effective simply legislating to secure employee voice is unlikely to be successful on its own. For this reason we advocate that, at least initially, an approach is adopted which draws on behavioural economics, commonly known as "nudge" theory to secure change. The focus should initially be on firms of more than 250 employees, where formal forms of employee participation are more likely to be beneficial.

However, as in other areas where changes in corporate behaviour are being sought such as representation of women on Boards and executive pay, legislation should not be ruled out if behavioural change by employers is insufficient.

Within the framework of behavioural economics or 'nudge theory' there are several measures which government could consider to promote employee empowerment and workplace democracy.[69]

An information and awareness raising campaign

This echoes the findings of the 2009 BIS report 'Engaging for Success', which called for a "nationwide awareness raising

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69   Institute for Government, 'Mindspace: influencing behaviour through public policy' (2010)

campaign" and increased support. This needs to come in two forms. First, a campaign targeted at employers, raising awareness of workplace democracy as an issue and as an effective way of modernising management style to increase productivity. Managers should be encouraged to visit and talk to counterparts at other organisations that have been successful at implementing more employee empowerment and should be provided with guidance from the Department of Business Innovation and Skills on how they can proceed and which approaches represent best practice.

Secondly, a campaign targeted at workers, making sure that they are all aware of their rights under the 2004 regulations and offering training and support for employees who want to establish systems of participation in their workplaces. These two campaigns should run in parallel and ought to increase both the number and quality of participation schemes, and should focus as much on informal procedures as formal ones.

Promotion of increased employee empowerment as a norm to which employers should aspire

Establishing norms of behaviour is an important factor in influencing actions. One way of doing this is by establishing reporting standards and so we consider that the government should retain the requirement on companies with over 250 employees to provide an annual public report on their practices of employee involvement. We understand the concern set out in the latest BIS consultation paper that this has become an exercise of form rather than substance. However we believe that it would be a retrograde step to remove this requirement . Instead we believe it should be extended to give it meaning and that it should be extended beyond reporting on employee involvement towards employee participation and how these processes meet the principles of employees

- Having a say in the remuneration policies of the company (including at Board level)
- Having a say in the terms and conditions of employment of the company
- Having a say and influencing the strategic direction of the company

> : Provisions for dealing with employee suggestions and concerns,
>
> : any provisions they have implemented under the 2004 regulations.

This would help bring about the cultural acceptance of internationally recognised labour standards, as laid out by the International Labour Organisation which lists the "Existence of measures for consultation, cooperation and communication at all levels" as one of the essential criteria constituting a 'decent work standard'.[70]

The investor community has a potentially important role to play in promoting such good practice. The Financial Reporting Council could help to enforce this by amending the UK Corporate Governance Code to require listed companies to establish a policy concerning employee participation, including the measurable objectives for implementing the policy. Companies could be made to disclose annually a summary of the policy and progress made in meeting the objectives.

Incentivisation

A further way to encourage behavioural change is through incentives. There are many examples where government has sought to influence the behaviour of individuals through the tax system, eg a lower tax rate for unleaded compared to leaded petrol, alcohol and tobacco taxes etc. The recent suggestion by the Labour leader Ed Miliband that there should be differential corporation tax rates between "good" and "bad" companies extended this concept directly to the corporate sphere. Such an approach to promoting employee empowerment could be considered, A lower rate for corporation tax rates is just one option which could be considered alongside other incentives such as a lower national insurance employers' contribution or raising the threshold at which national insurance is payable by employers. If an incentivisation approach were to be pursued then our initial view is that using national insurance would be a better approach than using corporation tax as it would give a larger incentive to more labour intensive firms.

This could be enacted through linking the discount to

70   International Labour Organisation, 'Decent Work, standards and indicators', working paper 58 (2005), p5

requirements for employee participation similar to those used by the '*Societas Europaea*' or 'European company'. SEs have three standard models of employee participation, and it is expected that all new SEs should follow one of them, Workers can either be represented at board level alongside employers, or in a separate works council of employee only representatives, or by a third option negotiated by common consent of employees and management. However such an approach is likely to be expensive - a one percentage point discount on corporation tax rate would cost the Exchequer around £1billion per annum. At a time of fiscal austerity such a use of potential tax revenue may be regarded as a low priority.

Legislation

For this reason we think that legislation should be considered for firms with, say, over 250 employees, if a substantial momentum cannot be built up towards greater employee empowerment from the first two measures outlined above. We do not advocate legislation setting out a specific form of participation which should be used by all firms. Rather we would propose a principles based approach and/or a structure based on the employee participation arrangements of the European company outlined above. In the former case there would need to be a body which would approve participation arrangements. This could be along the lines of the Industrial Participation Agency or a strengthened Advisory, Conciliation and Arbitration Service (ACAS), as proposed by the Liberal Democrats in 1990.[71] The agency could also act as the promotional body for employee empowerment to run the awareness campaign outlined above, working with employers to help them find forms of workplace democracy that suited their circumstances. It could also establish the standards and norms for employee empowerment to be used in the second measure outlined above.

Furthermore, the government could consider a change to company law to facilitate the use of a supervisory board structure for UK companies that wished to pursue this as an option.

In one area there may be a case for legislation more immediately ie employees being represented on remuneration committees

71   'Citizens at Work', Liberal Democrat Green Paper (1990)

of boards. In this instance, efforts to change behaviour without legislation have proved ineffective to date, and hence firmer action may be required.

In addition two further steps could taken to promote greater employee empowerment.

First, action could be taken to strengthen the existing Information and Consultation of Employees Regulations 2004:

: Reducing the ten percent threshold for making a valid employee request under Regulation 7 to five percent and the upper limit from 2,500 to 1,000 employees.

: Reducing the 40 percent threshold for making changes to existing arrangements under Regulation 8 to 20 percent, or the introduction of a cut-off date for such arrangements.

Secondly, government itself as the UK's largest employer could set an example and so without any regulation of private organisations whatsoever, transform the workplaces of over six million employees.. At present, the public sector does not always set the example it should. In the NHS for instance:

> "The 2008 NHS staff survey revealed that only 51 per cent of staff felt they were involved or consulted on decisions that might affect their work area, team or department; only 27 per cent thought senior managers involved staff in important decisions"[72]

There are, however, some examples from the public sector that are very successful in this area. The 2009 BIS paper 'Engaging for Success' includes case studies of several public sector bodies which it considers to practice excellent staff engagement policies, including the State Pension Forecasting & Pension Tracing Service Unit at the Department for Work and Pensions, Chorley and Aberdeenshire councils and the Blackpool, Flyde and Wyre NHS Foundation Trust.

The coalition government already has a plan for public sector reform. It wants to open public services up to alternative providers, enable them to mutualise, make them more accountable and set up a new body to enforce the public's right to choice. This

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72   D. MacLeod and N. Clarke, 'Engaging for Success', BIS (2009); originally from Healthcare Commission, 'Sixth Annual NHS Staff Survey' (2008)

would be an ideal moment to tie in reforms to make them more democratic and accountable to their employees as well.

Care needs to be taken to ensure that this does not conflict with democratically elected bodies. However there are already precedents with workers being represented on the governing bodies of schools and foundation hospitals. In the case of democratically elected bodies it may be that formal works councils are the most appropriate form of representation. However it is clear that the public sector should be setting an example and that improving employee relations in the public sector would yield considerable benefits.