

The Significance of Seniority in Layoffs: *A Comparative Analysis*

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The Significance of Seniority in Layoffs: A Comparative Analysis

Fredrik Engelstad¹

The role of seniority in decisions about layoffs when firms have to downsize is discussed on the basis of comparative studies from five countries: Brazil, France, Germany, Norway, and the United States. The relevance of seniority is viewed in relation to pure norms of allocation, such as equality, contribution, needs, and productivity. Seniority is shown to have strong adherence in Norway and the United States, while it has a rather weak position in Brazil and France. Germany ranked as an intermediate between these two extremes. Reasons for the variation in the strength of the seniority principle are sought in general legal regulations, in wage agreements, and in the structure of the bargaining situation between employees and management. The future of the seniority principle is briefly discussed and it is assumed that it may lose importance due to organizational changes in the workplace.

KEY WORDS: employment; layoff; seniority.

When firms have to reduce their work force due to economic problems, the difficult question arises: Who shall be allowed to keep their jobs and who must leave the company?

Scholars discussing the norms of allocation on a principled basis, often fall down on the seniority criterion. According to a simple model introduced by Abraham and Medoff (1984), as long as less than half of the employees are going to be laid off, there will always be a majority in the work force who has an interest in seniority. This is perceived by management, who is willing to make significant concessions to avoid worker unrest. Elster (1991) followed up on this idea. He pointed out that in nonunionized firms there is always a temptation for managers to break with the seniority

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principle, but “whenever seniority can be enforced, it is in the interest of both workers and management to have it” (1991, pp. 113). Several empirical studies point in the same direction. A broad historical overview by Gersuny (1982a) concluded that seniority is a dominant principle, found across a wide variety of cultures.

Even if these studies represent an interesting point of view, they give a very incomplete picture of empirical reality. More thorough studies show that the status of seniority varies greatly between countries and over time. Moreover, the problems connected to the enforcement of seniority, mentioned by Elster, can only explain a small portion of this variation. The question, then, is how this variation may otherwise be explained.

To provide a possible answer to this question I first outline the norms that are most adequate in the selection of employees for layoffs. Then I describe briefly some of the most important aspects of the variation between countries. While making more casual references to other countries, I put most emphasis on the United States, Norway, and Germany. These countries are interesting because they represent the three welfare state regimes outlined by Esping-Andersen (1990). Third, I try to give a complete list of arguments in favor of the seniority criterion, in order to assess its strength vis-à-vis alternative norms. Reasons for the weak position of seniority in some countries are sought in the absence, or lack of relevance, of these arguments in the given context. The article closes with a broad description of changes in the position of seniority in some countries in Western Europe and America.

Downsizing Without Layoffs

Before entering the discussion, it should be underlined that downsizing may very well take place without anyone being laid off. Many people who leave their job more or less involuntarily are not being laid off in the strict sense. Thus questions of norms of justice pertain only to a subgroup of the working population. Alternatives to layoffs may be hiring people on short-term contracts, setting up schemes for early retirement, dismissing people on personal or disciplinary grounds, offering paid leave for retraining, or offering monetary rewards to induce voluntary exits. Undoubtedly, those measures have been growing in importance in the last decades (for a comparative assessment of Germany and Norway, see Engelstad, 1997). These alternative ways of downsizing have the effect of restricting the number of people to be selected for layoffs, something that also influences the weight accorded to the various normative principles, but they do not make normative considerations extraneous.

NORMS IN LAYOFFS

When justifying decisions about the selection of employees for layoffs, four pure principles of distribution may be of relevance (Elster, 1992; Engelstad, 1997). Three are related to properties of individuals: (i) productivity, (ii) needs, and (iii) contribution. They have in common the structure “to each according to his or her X’.” However, the principles are different in their time structure. Productivity is a forward-looking criterion. Needs refer to present states, whereas contribution is backward-looking. In addition to these, (iv) a norm of equality disregarding personal characteristics may be of great importance. If equal division is precluded by the goods being indivisible, as they often are treated in layoffs, lotteries, or rotation schemes may be used as allocative mechanisms. (Technically speaking, jobs are of course highly divisible, but this requires a work-sharing scheme. However, from a social point of view, extensive work sharing is viable only for shorter periods.)

All four norms may be regarded as pure, in the sense that they single out one irreducible aspect to be taken into account. Pure norms may also be combined in order to create a compromise between conflicting considerations.² It is often problematic to assess the future outcome of a decision with any degree of confidence. In such cases it may be easier to resort to a non-outcome-oriented norm to serve as a proxy. Alternatively, it is possible to construct mixed norms or criteria. In the realm of layoffs, seniority is the one important mixed criterion. Operationally it is backward-looking, and thus reflects former contributions. At the same time it is generally correlated with productivity and some aspects of needs. It also has the property in common with the equality norm that it is impersonal and nondiscretionary. Thus, seniority may function as a sort of catch-all norm.

Data

The topic of the present article is norms, and not the way they are put into practice. To some extent norms may be inferred from practice, but there is always the possibility that the norm is not followed, for pragmatic reasons or otherwise. Even if a given norm is supported with great sincerity, there may be a lot of impediments to their realization.

When assessing the norm of seniority, the main data sources are relevant legislation, collective agreements, and mappings of informal social

²This may be done in one of two ways. Either they may be sequentially (“lexicographically”) combined, such that first one criterion is applied, and then the next, and so on. Or they may be combined in some sort of weighing procedure to form an additive scale.

norms in the population. Given the degree of formalization of these norms, they have a fairly stable character. The actual decisions about layoffs are to a varying degree influenced by all these normative sources. However, to understand the norm, not only the extent to which it is followed but also what it actually means, precise studies of the actual mechanisms are necessary. These are found in case studies, some of which are embedded in historical accounts or legal verdicts, while others have norms actually followed in layoff procedures as their explicit subject.³

VARYING IMPORTANCE OF SENIORITY

Decisions about layoffs are as a general rule made by the employer, who in all industrial countries is responsible in the last instance for the selection of employees. Nevertheless, his decisions are mostly preceded and shaped by negotiations with representatives of the workers, be it unions or other parties. Given the final responsibility of the employer, the concept of "negotiation" here is used in a broad sense. It points to the fact that in all instances the employer has to communicate and discuss the situation with representatives of the employees, or, at the very least, preempt their reactions. In many instances, however, negotiations are formalized or implied in the legislation or in legally binding agreements.

Bargaining Position: Legislation and Agreements

In the United States, the relevant legislation does not deal directly with layoffs but is of a purely negative character, as it forbids discrimination on the basis of sex, race, or age. Within these frames, the employer is in principle free to lay off whoever he wants.⁴ But formal constraints on the selection of layoffs do exist in firm specific wage agreements, many of which contain very precise prescriptions on the selection of employees in case of downsizing (Romm, 1995). Thus, in unionized firms the union takes part directly in negotiations over layoffs. The union, or single employees, may take the case to court either on the basis of breaches with the agreement on the part of the employer, or based on assumptions of discrimination. However, only between 10 and 15% of the American work force is unionized.

³The most comprehensive study of layoffs norms has been made within the international Local Justice project. The present exposition relies heavily on these findings.

⁴In the state legislation of Montana, the power of the employer is restricted to some degree by a "just cause" clause (Kruger, 1991).

A prototypical contrast to the United States is Germany, where there are very detailed legal prescriptions on both process and criteria for layoffs, while agreements between management and workers play a negligible role. In principle, the scope of discretion of the employer is limited, and he has to take up extensive consultations with the Works Council, which acts as a representative of the work force as a whole, and not only of union members. These consultations concern both selection of employees and monetary compensations for those laid off. If an employee finds the layoff decision unfair, he may take the case to court, and may obtain a legal right to remain in the job until the case is settled, something that enhances the power of the employee side. Mostly, however, lawsuits regulate compensations, but do not reinstall the employee in the former job (Schmidt and Hartmann, 1997).

In France, as in Germany, criteria for layoffs are stated in the law, but are not regarded as mandatory, only as guidelines. Even if employers are supposed to have more discretionary power in France than in most European countries—on a par with American managers—until 1986 French legislation did not allow firms to downsize at their own will. Companies had to apply to the labor market authorities, and negotiations would then take place between firms and labor inspectors acting on behalf of the public authorities. Partly for this reason and partly on political grounds, French unions have been reluctant to take part in negotiations with management over layoffs. It is mainly labor inspectors who represent the interests of employees vis-à-vis management (Bessy, 1994).

A similar resistance to negotiations over layoffs is found among unions in the industrialized part of Brazil. Unions protest against downsizing in political action, but do not take part in selection processes, only in negotiations over cash compensations. The law prescribes monetary compensation to those laid off, and accords protection to specified groups. The same main pattern is found in agreement on company level. The protection by the courts of employee interests is inefficient, something that gives management fairly free hands in choosing among their employees (Figueiredo, 1994, 1997).

In Norway, as in the United States, the law does not specify criteria for layoffs, except age. But selection procedures are formally constrained by the General Contracts, which are agreements between confederations of employers and workers regulating the mode of operation of the labor market parties. The law gives the employees a right to negotiate with management over layoffs, and in a stronger sense than in the German system, makes it possible to take the case to court if the decision is deemed unfair (Engelstad, 1994).

Which Criteria?

When downsizing occurs, it mostly takes place within a situation of economic hardship for the company. An important consideration, for owners as well as the remaining employees, is to secure continued running of the company. This implies that productivity must play a dominant role when it is decided who are going to stay in the company.

But there are few instances where no other criteria enter the decision, if only as a tie breaker between equally productive workers. Moreover, in many cases it may be difficult to assess the productivity of workers in a reliable way. In addition, purely normative concerns may also be pressing. When selecting people to be laid off, the typical problem is thus to weigh or combine the productivity criterion with other considerations. But which additional criteria are to be taken into account varies greatly between countries.

In the United States and Norway, seniority is by far the most important secondary criterion, while needs hold a marginal position. In both countries, seniority is warranted by agreements. Even if only a small minority of American firms are unionized, and thus formally bound to apply seniority, a study by Abraham and Medoff (1984) indicate, however, that many nonunionized companies feel committed to seniority as well, even if they probably apply the seniority criterion in a less rigorous way than do most unionized firms. In Norway, the seniority criterion is founded in the General Contracts, which cover about half of the work force. Those who fall outside are mainly employed in small firms where seniority necessarily plays a minor role. The seniority principle is supported by the public opinion in the two countries as well. Survey material shows that seniority is preferred by a majority of 59% in Norway, although the support is somewhat weaker in the United States, where seniority is preferred by 47% of the population. (This finding is in line with the results of a study from the American West Coast circa 1960; Selznick and Vollmer, 1962.) The most striking contrast between the two countries comes forth in the support of productivity, which is preferred by 37% in the American population, as compared to 12% in Norway (General Social Survey, 1996; Engelstad, 1988).

In Germany, France, and Brazil, on the other hand, needs play a greater role, in some even greater than seniority. In Germany it is legally prescribed to group candidates for layoffs after occupational tasks and abilities, and rank them within groups according to social considerations (*soziale Auswahl*). Seniority is first among these, but still only one of the relevant factors which comprise among others age and family support (Schmidt and Hartmann, 1997). In France, need considerations have been part of the

legislation since the Second World War, and their position was strengthened with the changes of legislation in the second half of the 1980s (Bessy, 1988). Needs are accorded at least as great weight as seniority. In Brazilian law needs play the most important role as well, in addition to protection of trade union officers. The same is true for agreements (Figueiredo, 1994). No representative surveys covering preferences for layoff criteria in the public exist in these countries, but case studies from Germany and Brazil indicate a stronger support for needs criteria than what is found in Norway and the United States. In Brazil there is hardly any support for seniority among unions or rank-and-file workers (Figueiredo, 1994, 1997; Schmidt and Hartmann, 1997).

Two Types of Regimes?

On the basis of this brief overview the countries may be divided into two groups. In the first group, comprising the United States and Norway, unions are bargaining with management, and there are few legal prescriptions as to which criteria should be used. Nevertheless, seniority is accorded a strong position in agreements, and is supported by a large part of the population. In the second group—Germany, France—negotiations are led by officially appointed representatives of the employees, and the criteria have a more or less legally binding status. Agreements are of little significance for decisions on layoffs. Brazil belongs to the same group, as negotiations on selection for layoffs between unions and management normally do not take place. In these countries seniority is of less importance, whereas needs play a greater role. In Germany seniority is one of several criteria, in Brazil it is insignificant.

REASONS FOR SUPPORT FOR SENIORITY

Procedural Aspects

Let me first mention some purely pragmatic reasons why seniority may be an attractive criterion in the selection of employees. Assessing future productivity or present needs always requires some discretion. This may be true even for former contributions, as the assessment of achievements in the past also is open to interpretation.

In contrast to these principles, the seniority criterion is purely mechanical. It is easy to measure and easy to understand for all parties involved, something that reduces transaction costs. Its objective character also

makes seniority easy to control. Anyone may get a clear idea of his or her own seniority and that of all other employees, and reassure her- or himself that the selection is performed correctly. Thus, it is relatively easy to establish some legitimacy around the decisions.

Equality

Given that the remaining jobs in the downsized firm are treated as indivisible goods, in applying the principle of equality they may be allocated by means of lotteries or queues. Of these two alternatives, lotteries are very efficient, but it is often very difficult to gain acceptance for them, as they run counter to our wish to represent the social world as rational (Fishburn, 1978). A questionnaire survey in Norway demonstrated vehement resistance to the idea of lotteries for layoff selection (Engelstad, 1988).

The seniority criterion, on the other hand, is in accordance with queuing. In contrast to lotteries, the order of persons in a queue is dependent on the participants themselves. The actors are to some degree responsible for the outcome. With the great emphasis on responsibility and predictability in working life, queues are probably regarded as being more in line with the general norm system of work in modern societies.

In some cases management will have clear interests in a norm of equality. An example is found in America around the turn of the century. Hiring and firing was performed by foremen or middle managers. There were many examples, however, where top management suspected foremen of nepotism and protecting friends or relatives even if they had lower productivity than alternative candidates. To curb the discretion of foremen, top management introduced the seniority criterion (Jacoby, 1985).

The issue of neutrality vis-à-vis personal characteristics may also enhance preferences for seniority among workers. Seniority diminishes the chances of discrimination on the basis of gender, race, or other traits, as pointed out by Freeman and Medoff (1984). Due to shorter time in service, minorities may lose in the short run by the use of seniority. Nevertheless, in the long run they may find it more desirable to curb the discretion of the employer, and thereby avoid discrimination. This has shown itself to be true for female employees in Norway as well (Engelstad, 1994).

Moreover, there is no implicit assumption in the seniority criterion that workers laid off are less competent or in other ways less worthy than those who stay in the company. This naturally has great consequences for the self-esteem of those laid off. It was not their fault that they lost the job, but simply a matter of bad luck. A related aspect refers to the subsequent

labor market processes. When workers laid off by seniority are applying for new jobs, there is no reason for prospective employers to assume that job applicants have lost their job due to incompetence.

Productivity Aspect

For the employer, the ideal situation is to be free to select the most productive workers to remain in the company. However, this may be difficult due to imperfect information. How is productivity to be assessed? In the absence of precise criteria, a norm or a rule of thumb may be near at hand (Simon, 1945).

Seniority serves as a relevant proxy for productivity to the extent that those who have been in the company for the longest time also are the most competent to perform the job. This is particularly relevant in companies where on-the-job training is prominent.

Moreover, seniority contributes to the reduction in turnover in the firm. In itself this leads to higher productivity due to enhanced social stability and reduced costs connected to hiring and training.

Needs Aspects

Needs refer to a varied set of states among employees (Engelstad, 1997). If all of these are taken into consideration, there is probably no correlation between needs and seniority. But for one group, that of elderly workers, there is a clear connection. Because seniority is correlated with age, the seniority principle in turn favors those who have the greatest difficulties in getting a new job. On the other hand, seniority is negatively correlated with the needs of other groups, such as young people or single mothers. Thus, seniority is a better reflection of a pure age criterion than of needs in general.

Contribution Aspects

In companies with paternalist leadership, the principle of contribution is of great significance. Long service in the company is taken as a sign of strong loyalty vis-à-vis the employer, who feels that this deserves to be honored in difficult times. In Norway in the second half of last century, paternalism was a dominant reason for employers' adherence to seniority (Engelstad, 1994). Up to the Second World War this was undoubtedly true for other European countries, like Germany and France, as well (e.g., Bessy, 1994).

A parallel argument is found on the side of workers, but then with a clear front against paternalism. In line with the classical labor theory of value, workers may maintain that their labor is the only source of value formation in the company. Thus, those who have been in the firm the longest time, also have the greatest rights to the values that the company distributes to some of their workers, for instance when jobs are scarce.

Strategic Arguments

A firm is not only a workplace but also an arena for conflict. Conflicts are fought between management and workers over wages and working conditions, but also over long-term social relations and control over company policies. Trade unions have been one of the main instruments of the working class in its struggle against the dominance of capitalists.

From a purely strategic point of view, unions have had three reasons for supporting seniority. One is connected to the position of the union leadership. On the average, trade union officers have higher seniority than the average in the work force. Thus the seniority principle protects them from being sacked first if the company has to downsize (Golden, 1991; Engelstad, 1994). As a response to the same problem, many unions in American companies have negotiated some form of "superseniority" for their representatives (Romm, 1995). (Another strategy is to inscribe protection of trade union officers into the law, as is the case, e.g., in Brazil.)

Moreover, unions are membership organizations that have to find a balance between conflicting claims of its members. Treating members equally is a precondition for upholding confidence among the rank-and-file. Being a mechanical criterion, seniority secures equal treatment of members. Moreover, it gives preference to those employees who in the past have contributed the most to the running of the union.

Finally, the nondiscretionary aspect of seniority not only preempts discrimination, as already mentioned but also contributes to the reduction of employers' sovereign right to make decisions within the firm. This point is of greatest relevance to labor unions which see themselves as part of a general anticapitalist struggle.

Paradoxically, a somewhat similar reasoning may be made on the side of employers. If employers perceive that seniority is the criterion preferred by employees, they may be motivated to use it for this very reason. This is a common way of thinking among American managers, where most employers are hostile to unionization. Given that seniority mostly is preferred by employees, employers may commit themselves to the seniority principle in order to keep unions out of the company (Abraham and Medoff, 1984).

Problems of Self-Binding

Not only workers but also management have interests in seniority, as already pointed out. The main reason lies in the need for long-term stability in the work force. The problem, raised by Elster (1991), is that management at the same time has a preference for discretionary decision making. Consequently, employers are reluctant to binding themselves by formal agreements. But in the absence of agreements, how can management convince employees that long-term job stability on the part of employees actually will be rewarded?

The most obvious reply is of course to announce and apply seniority in layoff decisions. Symbolic measures like preferential treatment of elderly employees is another strategy. An interesting example is found in Norwegian banking. All employees over 55 years were exempted when a major bank was downsizing (Idås, 1992). This has two implications. First it shows clearly that length of service is rewarded. But second, the company retains a large group which will leave in a few years anyway, thus securing good possibilities for restructuring in the future.

REASONS FOR DEVIATION FROM SENIORITY

The foregoing list of arguments is indeed a massive set of reasons for the adoption of the seniority criterion. Nevertheless, there is pertinent variation in the use of seniority between countries and over time, as already noted. The question, then, is how this can be explained.

Cultural factors undoubtedly play an important role. The influence of religious doctrines and other strong ideological commitments cannot simply be overlooked. But to a large degree "culture" does not exist as free-floating impulses, but are institutionalized into legal codes, rules, and social organization. Thus, above all, institutional factors have to be examined.

Legal Regulations

In many cases seniority must compete with other normative considerations. When these are integrated into the legal system, seniority inevitably loses some of its power, even if it is accorded a privileged position. The most clear-cut example is German labor law, where needs are codified along with seniority. The legal regulation is strengthened by the possibility of the employee taking his or her case to court if it is found unfair.

No Real Bargaining Situation

In many countries no real bargaining between employees and management over layoffs takes place. One major reason is that some unions do not accept layoffs, and see it as their main task to fight them as part of their anticapitalist struggle. Consequently, they are unwilling to take coresponsibility for the downsizing process by taking part in negotiations over the selection of workers. This attitude was well known all over the Western world in earlier periods, and in several countries it is still of relevance. This is true for Italy (Golden, 1991), Brazil (Figueiredo, 1994), and to some extent France (Bessy, 1994).

No Strongly Committed Bargaining Party

Given that unions accept layoffs, they have several good reasons for defending seniority as well, as pointed out in the "Reasons for Support for Seniority" above. However, the mode of operation of unions should be seen in contrast to cases where employee interests are represented by other parties than unions, as is the case in Germany and France. In Germany the "bargaining party" is the Works Council, which is not a membership organization, but an institution established by law. The Works Council is not committed to equality in its relationship to the constituency in the same way as the union, and can more easily let needs considerations enter into their deliberations (Schmidt and Hartmann, 1997; see also discussion in Engelstad, 1997). In France, the counterpart to management is the labor inspector who mainly sees to it that legal procedures are followed but does not have specific preferences concerning principles to be applied for selection (Bessy, 1993).

Age and Wage Structure

In many companies a correlation exists between wages and seniority in the firm. Those who have been employed for the longest time also are relatively best paid. This means that in downsizing processes, companies gain most by selecting senior employees. As indicated in the foregoing section, the relationship between productivity and seniority may in some cases be negative, due to rapid technological change or demanding work conditions. This may undermine the position of seniority, or lead to compromises where elderly workers are transferred to early retirement schemes, while the seniority principle is applied in the somewhat younger age groups.

Legitimacy of Productivity

Productivity is the main interest of employers, but workers may also have an interest in the productivity principle. This has to do with the interest among the remaining workers that the firm should be as economically stable as possible. In unskilled occupations, productivity may be regarded as basically irrelevant. However, the more formalized education and the more specialized division of labor, the greater the relevance of productivity, both for management and employees.

If employees find productivity to be the most relevant, and believe it is possible to measure it without too strong bias, it will easily trump seniority. This is probably to some extent the case in the United States.

Welfare State Regimes

To explain the differences observed between the five countries concerning criteria for the selection of employees for layoffs, the typology of welfare state regimes by Esping-Andersen (1990) may be a good starting point. The countries selected here represent all the types in the typology: the liberalist (USA), the corporatist (Germany, France), and the social democratic (Norway).

The strong position of needs considerations in some countries may be understood in the light of the ideology behind the corporatist welfare state. Both Continental Europe and Brazil have been heavily influenced by the social ethics of the Catholic Church, which stresses the reciprocal obligations of family members, and of employers vis-à-vis the employees. In line with this regime, employers will put considerable weight on workers' needs when they select employees for layoffs (but see also the paternalist arguments in favor of seniority, pointed out above).

CHANGES OVER TIME IN THE POSITION OF SENIORITY

When presented in this rather abstract way, it may be difficult to get a clear picture of how arguments for and against seniority have been evoked and enacted in actual practice. Causal connections are not created by combinations of free floating "factors" or arguments, but emerge and are upheld by patterns of path dependency. As a tentative conclusion, a more comprehensive picture of the variations in the use of seniority over time is presented by summarizing the preceding points within a stylized taxonomy of temporal phases in industrial organization.

Very crudely, industrialized production during the last hundred years may be divided into three phases: (i) traditional, craft-based production in the decades before and after the turn of the century, (ii) modern industrialism in the decades before and after the Second World War, and (iii) postindustrial working life towards the end of the 20th century (Engelstad, 1994).

Traditional Phase: Paternalism and Seniority

In this phase we find a fairly high degree of paternalism among employers all over Europe. Workers' loyalty to the company is rewarded, something that points in the direction of seniority. But at the same time the social security net has not yet come into existence. Thus needs considerations also weigh heavily. The correlation between seniority, age, and needs is of great importance in this period. Among workers, threats of unemployment are often met by demand for work sharing rather than layoffs.

In the United States, where paternalism had a weak position, the situation is somewhat different. On the one hand, top management in many cases favored seniority in order to curb nepotism among foremen, as already mentioned (Jacoby, 1985). But given the high mobility in the work force, workers would also favor seniority (see overview in Golden, 1990). This did not mean that the needs criterion was absent, but it carried less weight than in Europe.

High Industrialism: Emergence of the Welfare State

In the between-war era, two events had a decisive influence on the growing acceptance of seniority. First, the great depression made it clear that work sharing was no viable strategy for the working class. In many countries unions instead accepted layoffs as a part of a modern economy, where continuous rationalization and restructuring is the rule. Second, comprehensive systems for social security and unemployment benefits emerged on both sides of the Atlantic in the years before the Second World War. Generalized benefits made needs considerations less pressing within the context of working life. It became possible to regard needs as a private matter outside the work sphere.

However, in different countries we find different answers to this situation. Both in the United States and Norway this led to a broader acceptance of the seniority principle than before, in line with the arguments sketched above (Gersuny, 1982b; Engelstad, 1994). One driving force in this development was the trade unions. In the United States, unions nego-

tiated seniority clauses in the wage agreements on the company level. In Norway, where the labor market parties are more centralized, seniority clauses were introduced in the General Contracts on the national level.

On the European Continent, in contrast, layoff procedures were laid down not by unions and employers, but taken directly into the emerging social security legislation in the immediate postwar period. Thereby, the needs principle was codified through public regulations. After being made part of the legal code, the position of needs was increasing rather than diminishing in the following years (Bessy, 1988; Klebe, 1981), certainly for ideological reasons but also due to the "logic" of the legal system itself. At the same time, political restoration after the war, albeit different in Germany and France, entailed public regulation of the system of negotiations on company level (Works Councils, labor inspectors), something that discouraged the emergence of employee representatives with a clear commitment to seniority.

Postindustrial Phase: Decline of Seniority?

In the present postindustrial phase, there are clear indications of a growing emphasis on productivity all over the Western world, in management and among employees alike. Several factors account for this change: New methods of measurement of productivity are developed. Increased formalized competence in the work force makes it easier to distinguish between employees. Moreover, specialization of tasks is growing in importance. Increased flexibilization of the work organization reduces the permanence of the employment relation.

All these factors go against the seniority criterion, even if they do not necessarily abrogate it. In the United States seniority is weakened by the fact that rates of unionization have declined drastically the last decades, giving management fewer formal impediments in layoff decisions. A somewhat different picture presents itself in Germany. Existing legislation is quite strict, and it has not undergone significant changes since the early 1950s (Klebe, 1981). Maybe it makes it too difficult for companies to obtain flexibility through layoffs. The solution at hand is a massive system of buy-outs, subsidized by generous state support for early retirement (Schmidt and Hartmann, 1997). In this case too, the importance of normative criteria—be they needs or seniority—may be declining.

These trends may vary in strength from country to country. They seem, for instance, to be weaker in Norway than in the United States and Germany. And we do not know whether they will persist in the future. But in

the last decade, there have been few signals pointing in a different direction.

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