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Volume Author/Editor: Joel Rogers and Wolfgang Streeck

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Chapter Author: Wolfgang Streeck

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Works Councils in Western Europe: From Consultation to Participation

Wolfgang Streeck

11.1 Introduction

The capital-labor settlement after the Second World War provided for recognition of free, adversarial collective bargaining between unions and employers. But as the papers in this volume show,¹ in most Western European countries it also included arrangements at the workplace for collective consultation between management and workforce, in the form of works councils. Supplementing distributive collective bargaining, and indeed sometimes preceding it, works councils were to concern themselves with production issues and ways of increasing productivity through cooperation in the production sphere. Today the remarkable fact of the almost universal establishment of works councils after 1945 in otherwise very different national contexts, as an integral part of a worldwide recasting of the political economy of capitalism after the economic and political catastrophes of the interwar period, is largely forgotten.

Works councils, to be sure, differed considerably between countries. In some, such as the Netherlands and France, they were chaired by the employer; elsewhere they were worker-only bodies. In Germany, the Netherlands, and France, councils were based on legislation; in Sweden and Italy, by contrast, they were set up through national collective agreement, making councils union-based and defining a pattern that lasts until the present day. More impressive than the differences, however, were the commonalities of the various council systems and the simultaneity of their establishment. In all six countries under study, laws on works councils were passed or national agreements signed

Wolfgang Streeck was at the time this was written professor of sociology and industrial relations at the University of Wisconsin-Madison.

1. This chapter draws primarily on chapters 3, 4, 5, 6, 7, and 8 of the present volume. While their authors commented extensively on an earlier draft, responsibility for the factual presentation and the conclusions offered rests exclusively with the author.

almost immediately after the war had ended (table 11.1).² West Germany came last with the Betriebsverfassungsgesetz of 1952; but the West German state had been founded only in 1949, and in fact works councils had been running most of what was left of its devastated industry in the first few years after 1945. Even Francoist Spain passed works council legislation in 1947, recognizing a need for some form of collective organization of workers at the workplace even under an authoritarian dictatorship.

Typically postwar works councils were kept strictly separate from collective bargaining. More or less consciously following Sinzheimer's 1920 *Entwurf einer Arbeitsverfassung* for the Weimar Republic, collective bargaining was reserved to unions as their exclusive domain, and indeed to nationally centralized unions negotiating with equally centralized employers' associations.³ In this way, distributional conflict was moved out of the workplace into a national, political arena, where it could be integrated in a broader context and traded off against Keynesian full-employment policy or a universalist welfare state. In any case, given the destructions of the war and the pressing need to rebuild the Continent's shattered economies, collective bargaining did not and could not play much of a role in the immediate postwar years, and in most countries had yet to develop fully. In Germany, in fact, where works councils were to become particularly important later, unions concentrated on collective wage bargaining only with great hesitation and only during the beginning "economic miracle" of the second half of the 1950s when their original objective, a complete *Neuordnung* of the economy on the basis of a multitiered system of parity co-determination, had finally eluded them. Works councils, of course, although quite different ones from those that were enacted in 1952, had played a central part in German unions' economic democracy (*Wirtschaftsdemokratie*) project—which was one reason why the Works Constitution Act was enacted only against their resistance.⁴

Outside Germany and Spain, in countries where pluralist industrial relations emerged or reemerged earlier, works councils were introduced with union and employer support as a counterbalance to institutionalized adversarialism. Sweden and Italy, where councils were created by collective agreement, are particularly instructive in this respect, but the situation was essentially the same else-

2. In Italy, the first major national agreement on works councils (*commissioni interne*) was reached in already 1943, before the restoration of free unions. Until 1947 the *commissioni* had collective bargaining rights.

3. This was, of course, different in Spain, where there were no unions and where the wage settlements dictated by the government could not be made to stick at the workplace. As a consequence Spanish works councils had to serve as outlets for and mediators in distributional conflict, with "cooperation," as it were, ensured at the national level—the reverse of the normal pattern. The fact that almost 20 years after Franco Spanish works councils still negotiate on wages is another impressive example of the stickiness of institutions and the formative power of original institutional design decisions.

4. Interestingly, this was similar in the Netherlands, where the unions were less than enthusiastic about the 1950 legislation, which they regarded as a watered-down version of previous Social Democratic proposals that had emphasized economic democracy at both the firm and sector levels.

where. In both countries, a powerful union movement coming out of the war was willing, at least for a transition period, to respect managerial prerogative in the organization of production in exchange for employer acceptance of, among other things, nationwide collective bargaining. In Italy, unions and employers had even before the end of the war agreed to work together to build a democratic nation after the devastations of fascism and the German occupation.⁵ The dominant spirit was one of centrist moderation in both camps, brought about by the shared experience of the resistance movement and influenced by the same Social-Catholic doctrine that subsequently was to become important in Germany as well. In Sweden, under quite different conditions, employers had in 1945 and 1946 beaten back an attempt by the radical Left to move quickly toward some form of socialism. One result was a shift in the leadership of the labor movement toward more moderate factions willing to pursue their objectives in a gradualistic way through, among other things, collective bargaining.

Remarkably, however, in Sweden just as in Italy and the rest of Europe, neither unions nor employers believed that collective bargaining alone was enough for a socially sustainable and economically productive reorganization of employment relations. Together with collective bargaining, the two sides also agreed, almost as a matter of course, that both the exercise of managerial prerogative at the workplace and the conduct of distributional conflict at the national level needed to be supplemented by workplace-based consultation between management and labor. Underlying this was a shared assumption that unilateral management was unable to provide for an optimal utilization of the forces of production, and that institutionalized conflict was less divisive and more socially benevolent if the resources available for distribution were more plentiful. By taking the edge out of the exercise of managerial discretion and the pursuit of political-distributional conflict, consultation at the workplace was to facilitate both. Like the acceptance of pluralism, this view became a constituent part of an almost universal consensus across class lines and national boundaries in the formative years of the postwar industrial relations system.

The only major exceptions from the general movement toward works councils after 1945 were the United States and, to a lesser extent, the United Kingdom. Several explanations come to mind for this, but clearly more research is required, especially on the British case. As for the United States, a major factor seems to have been the history of the struggle of bona fide unionism against company unions, as reflected in the Wagner Act's emphasis on adversarialism and its strong suspicion of nonadversarial, nonunion, cooperative forms of "labor organization" at the workplace. Moreover, unlike Western Europe, the American economy had not been destroyed in the war, and indeed America

5. To be sure, unlike in Sweden, this period came to an end in 1947 at the latest, when it gave way to two decades of union exclusion and authoritarian or paternalistic management practices.

entered the postwar era as the largest and leading industrial nation, with no need to rebuild its productive base through class cooperation. Also, American employers had not been discredited by cooperation with a dictatorship or a foreign aggressor and came out of the war as strong and as determined as ever to protect their right to manage. Apart from the rapid spread of seniority rules, that right was not much contested by American "business unions," except for a few easily defeated attempts especially by the UAW in the immediate postwar years. Not least, collective bargaining had never been firmly centralized in the United States, where in the unionized sector highly independent union locals occupied the organizational space in which works councils existed in Europe, making it difficult to imagine a stable and mutually supportive division of functions between unions and councils.

The British case is more difficult to understand, given that there was before and after the Second World War some experience with "productivity councils" and other consultative arrangements. On the other hand, Britain was among the winners of the war and took a long time to realize the depth of the economic problems it was facing. British employers therefore saw no urgent need for institutionalized cooperation at the point of production, especially since British unions were not much interested in co-determination themselves. Rather than on participation in managerial decisions, they had placed their hopes on nationalization, and in fact more industrial capacity than anywhere else outside the Communist bloc was expropriated by the post-1945 Labour government. Also, unlike in the United States, there was no tradition in Britain of legislative intervention in industrial relations, with the legal system long and firmly committed to abstentionism and both unions and employers insisting on "voluntarism" as the only adequate way of regulating employment relations. Politics was unlikely to change this. Given the very large number of unions, many of them small, that had little to gain from union-independent, unitary workplace representation, the Labour party saw no reason, and indeed thoroughly lacked the political capacity, to institutionalize works councils by legislation; the Conservative party, for its part, continued to defend the managerial prerogative so dear to its core clientele. Arguably because of the weak legal supports of its industrial relations system, Britain later came to be the first major country in Europe in which the postwar structure of centralized collective bargaining broke down and gave way to workplace bargaining.

Postwar works councils, in the countries where they existed, were consultative bodies. While they sometimes did have paternalistic traits, they were not set up by employers to crowd out unions, and could not have been given the unions' preoccupation with national-level, "political" bargaining. At the same time, councils typically had no and claimed no rights to co-determination and were generally not equipped to perform representational functions. The only, limited exception in this latter respect was West Germany with its Weimar tradition of economic democracy. Everywhere else, the early works councils respected the rights of both unions to represent and management to manage;

their main and sole purpose was to enable employers to consult with their workforces on how to improve economic performance, listen to constructive proposals growing out of workers' everyday work experience, and in the process build consensus for managerial decisions in the pursuit of economic progress.

11.2 Decay of Consultative Councils

During the 1950s and 1960s the consultative works councils of the early postwar years fell into disuse, and again the experience was shared by most European countries with the exception of West Germany and, to some extent, the Netherlands. Since mainstream industrial relations research outside Germany has grossly neglected works councils,⁶ little is known about the reasons for this once more astonishingly parallel development. Following the papers in this volume, it would seem that as national economies and industrial relations systems consolidated, both employers and unions lost interest in works councils and in part began to regard them as potentially dangerous to their newly established positions. Not only were councils' economic benefits found increasingly doubtful, but there also seems to have been a growing conviction that the separation of consultation and representation, on the possibility of which the early postwar councils had been premised, was untenable in the longer term and that works councils were bound to undermine either managerial prerogative or national unions' representational monopoly or both.

As to unions, it seems that the more they became established parties to sectoral or national collective bargaining, the more they began to regard works councils as potential agents of *Betriebspatriotismus*: of particularistic interests of employed workers in the economic well-being of their employer, undermining worker solidarity across enterprise lines, potentially replacing it with solidarity between individual employers and their workforces across class lines, and serving as an organizational infrastructure for what has been referred to as "wildcat cooperation." Fears like these were clearly strongest in countries where councils were not union-based. But as distributional conflict became more intense with the return of prosperity, there was a general decline in the confidence of unions that employers would respect the difference between consultation and representation and abstain from using councils to lure their workforces into local alliances undermining national or sectoral unions' conflictual capacities.

6. In part, this may have been because on the European continent industrial relations as a discipline took off only in the late 1960s, when the councils of the early postwar period were no more than a distant memory. Moreover, European students of industrial relations tended to sympathize with the views of the unions, which in the formative years of the discipline were eager to dissociate themselves from the postwar council tradition. Furthermore, in the Anglo-American countries from which the discipline was largely imported, councils were either unknown or almost by definition regarded as paternalistic and antiunion, and not part of "good," i.e., union-inclusive, pluralist industrial relations.

Interestingly, employers seem to have withdrawn from works councils out of exactly the opposite concerns. Having successfully restored legitimacy for their control over the workplace, they increasingly began to view councils, whether union-based or not, as potential entryways for unions and thus as threats to their reestablished right to manage. It is easy to imagine that such fears should have induced employers to use councils paternalistically for building antiunion coalitions with their workforces—confirming unions' worst fears and in turn inducing them to try and capture the councils for themselves, so as to prevent them being captured by the employers. The only way out of this self-reinforcing, escalating "spiral of low trust" (Fox) was to agree, more or less tacitly, on abandoning councils altogether.

Convergence on this solution was made possible by the fact that the early *economic* reasons for employers and unions to seek institutionalized consultation at the workplace seem soon to have fallen by the wayside. The 1950s and 1960s in Europe were a period of rapid advance of Fordist-Taylorist mass production. Consensus for "rationalization" was increasingly procured by firm expectations of continued economic growth, as well as by generally accepted perceptions of technological change as linear, predetermined, and self-propelled, with little if any space for alternatives or choice. Collective consultation with workers seemed of little use where compliance with managerial authority appeared to be assured by, or could easily be bought with, the economic benefits of its aggressive exercise, and where the efficient organization of production was regarded, not just by employers, as a matter of technological expertise beyond the reach and competence of democratic participation. In this environment, just as employers found it easy to renounce their past belief in the productive contribution of collective participation, unions typically abandoned their postwar concern with production and concentrated on the distribution of its results, increasingly refusing to become involved in responsibility for cooperation at the workplace either directly or, by condoning works councils regardless of their potential risks for union solidarity, indirectly.

But as the papers in this volume indicate, the demise of postwar councils outside West Germany and, in part, the Netherlands was also related to more narrowly institutional factors. While works councils typically had no rights to co-determination, they could expect consultation to give them access to privileged information and some, however limited, influence on managerial decisions. To this extent, consultation might have performed minimal representational functions for workers. The problem was, however, that employers were free to decide when and on what to initiate consultation. As decisions did not depend on the results, and sanctions for not consulting were weak or nonexistent, the early council systems entailed an ever-present temptation for employers not to consult if this might cause them discomfort. The sheer presence of this temptation, in turn, was bound to cause suspicions on the part of workers that when they were being consulted, it was only because management perceived consultation to be in its interest; if consultation might be advantageous

to workers it would not take place. Lacking representative institutions at the workplace, the temptation for workers then was to try to use consultation as a substitute for workplace collective bargaining. *As long as consultation was voluntary, workers were prone to regard works councils as management tools; while employers were inclined to use them as such, as well as to suspect workers of trying to use them for adversarial purposes.*

11.3 German Exceptionalism

For our further argument, it is crucial to understand why the decay of the postwar council system should not have been replicated in West Germany. Because of the division of Germany, the Communist party, which governed the eastern part of the country, was largely absent in the Federal Republic. Among other things this helped contain the radicalization of the union movement in West Germany's newly prosperous economy during the reconstruction period.⁷ Division also contributed importantly to the fact that the postwar political unity of West German unionism did not come apart later, as it did in Italy; with Communist influence weak or nonexistent, neither Social Democratic nor Catholic unionists found it necessary or attractive to break away from the unitary union federation, the Deutscher Gewerkschaftsbund (DGB). One consequence was continued strong influence on national union strategy of Catholic social doctrine, which was far less hostile to interclass cooperation, especially at the workplace, than both socialism and communism.

This is not to say that German unions were not afraid of the paternalistic and syndicalist potential of works councils; in fact they were, and had very good reasons to be. Unlike the works councils of the Weimar Republic, the councils that had been created by a conservative government under the Betriebsverfassungsgesetz of 1952 were not as a matter of course conceived to be union controlled. Important elements in the governing coalition intended the works councils of 1952 to have a potential to serve as union alternatives, *and it was partly for this purpose that, unlike works councils elsewhere in Europe at the time, they were endowed with rudimentary rights of representation through co-determination.* But while this might have been reason enough for most other union movements to stay away from the council system and to try to destroy it, postwar German unionism can be understood only against the background of its consuming preoccupation with *Mitbestimmung*: the equal sharing of control over economic decisions between capital and labor at all levels, including the enterprise. This defining project, which incidentally made it also more difficult for German unions than for others to move on to collective bargaining pure and simple, or at least made for a programmatically institutionalized bad conscience about any such tendency, effectively prevented a re-

7. A related reason for moderation was the relative weakness of German unions at the time, certainly compared to the Scandinavian countries or France.

jection of works councils even at a time when they might still have been used by employers for antiunion purposes: *even where they were, they somehow also incorporated the promise of worker participation in the management of enterprises*, which German unions stubbornly refused to regard as solely vested in property rights. Withdrawing from existing works councils while calling for extended co-determination would have been perceived as deeply and self-defeatingly contradictory. Here Social Democratic and Social-Catholic thinking converged, further fortifying the cohesion of the unitary union movement and protecting the union productivism of the first postwar years from being superseded by an exclusive concern with distributive politics and wage bargaining.

There were yet other reasons why German unions could not, in the same way as unions elsewhere, walk away from works councils. Among them was the prewar tradition of councils, going back to the revolution of 1918 and the Weimar Reichsverfassung of 1920. But most important, it would seem, was the councils' strong legal foundation that made for quite distinctive and, at the time, unique institutional dynamics. Given the way the 1952 legislation had been written, German unions would have found it impossible to undo the councils in the 1950s and 1960s, even if they had wanted to and even if they had won the support of the employers for this. Not only were councils of the state's and not of their or of the employers' making, forcing unions just as employers to find ways of living with them; more important, unlike works councils in other countries, German councils did after all have some effective representative functions that gave them legitimacy among workers and that neither unions nor employers could circumvent. While in hindsight these may not have amounted to much, they did intrude on managerial prerogative, at least in that they made employers defer certain decisions, especially on personnel matters, until the works council had had an opportunity to offer a counterproposal. In addition, the fact that councils commanded considerable support from workers forced unions to acknowledge that workers had workplace-specific interests which, to be adequately represented, needed decentralized in addition to centralized joint regulation. In the 1950s and 1960s, *German unions thus learned to share their representational functions, and German employers their managerial powers, with legally based works councils*, preparing the ground for the extension of co-determination that was to come in the 1970s.

As has been mentioned, an important factor that made it easier for German unionism to reconcile itself with the 1952 works councils was the survival of its political unity. Absence of political division facilitated the rapprochement between unions and councils not just ideologically but also organizationally: lacking significant competition, the unitary industrial unions affiliated to the DGB were able gradually to grow into the unitary works council system and take it over from the inside, turning legally based works councils into chosen union instruments for representing workers at the workplace. This process, to be sure, went far from smoothly. For a while, the suspicions harbored against

councils by external unions and the left wing of the movement were so strong that considerable investments were made in separate union workplace organizations (*Vertrauensleute*), even when the vast majority of council members had long come to be elected from union lists.

Slowly, however, this began to change. As unions saw their workplace leaders take over the councils and *exercise council rights as union rights*, their main problem with the system increasingly became, not its existence as such, but the fact that the rights it provided to workers were so limited. A model of how councils could be more powerful while at the same time remaining firmly under union control was offered by coal and steel co-determination, a regime whose extension to the rest of German industry was the DGB's main demand on the road to full *Mitbestimmung*. Having learned from coal and steel how effectively to *infuse representation in consultation*, German unions came to cherish the many other advantages a well-established, workplace-based council system offers to industrial unions engaged in centralized wage bargaining—such as access to information, protection of external unions' strike monopoly, containment of local wage drift, prevention of fragmentation by occupation or skill, competitive disadvantage for splinter unions, easy de facto union recognition, assistance in the recruitment of members, effective local implementation of collective agreements, and assured union access to workplace-specific interests that otherwise might seek different outlets. As early as the second half of the 1960s, then, external union opposition to works councils had become largely rhetorical, and in practice, unions and councils had made their peace with each other, the former working closely with and through the latter in serving members and workers at the workplace.

11.4 Rise of Workplace Representation in the 1970s

The Europe-wide wave of unofficial strikes in 1968 and 1969 caused the first major revision in the institutional arrangements that had governed postwar industrial relations for two decades. Again, the parallels between countries are impressive. Most of the literature describes the longer-term results of the strikes as a transformation of both industrial relations and parliamentary democracy toward more institutionalized participation of national unions in broad areas of public policy making, under labels like “neocorporatism” (Schmitter) or “political exchange” (Pizzorno). But while this was certainly a very important part of what happened, no less central to the update of the postwar settlement in the late 1960s and early 1970s was the recognition by governments, employers, and unions of *the workplace as a site for legitimate interest representation* and of a role for unions as vital participants in it.

The reorganization of the workplace to satisfy newly discovered demands for “industrial democracy” and “participation” responded to the fact that the strikes had almost universally been called, not by external national unions, but by local workplace leaders. External unions, just as governments and employ-

ers, saw the strikes above all as a very serious warning that centralized unionism and collective bargaining were about to lose control over the articulation of workplace-specific interests—or, more precisely, had for whatever reason failed to develop capacities to represent powerful worker interests that were left unrepresented only at the risk of industrial disorder and social unrest. In part, the unrepresented interests that were perceived as having caused the crisis had to do with wages and, most important, wage differentials, calling into question the leveling wage policies of national and sectoral unions especially in countries like Sweden. But very clearly, other grievances were also involved, in particular over rationalization, technical change, and working conditions. In this respect, the writing on the wall was that after two decades of Fordist-Taylorist progress, its peace formula—assured growth as a reward for voiceless acquiescence with managerial decisions—was coming apart, with workers determined to claim a role in the regulation of their working conditions and refusing to leave the management of the workplace to employers and their industrial engineers in return for, supposedly, ever-rising material payoffs.

When the strikes were over, European unions were stronger than ever since the immediate postwar years. National union leaders were courted by governments and employers as the only possible managers of what was seen as deep and threatening discontent. In particular, unions were asked to contribute to the restoration of industrial order in two ways. At the national level, they were urged to help contain the rising inflation so as to enable governments to continue to provide for full employment without having to sacrifice monetary stability: this was the incomes policy part of neocorporatism that came to attract most of the attention of researchers. In addition, however, and partly as an advance reward for their expected collaboration in macroeconomic stabilization, unions were given, or were able to get for themselves, better access to the workplace and an assured role in the representation of workplace-specific interests.

Again, there were differences between countries. In some, “qualitative” demands of workers for “industrial democracy” were eagerly attended to and even cultivated in order to divert workers’ attention from “quantitative” wage issues, in an attempt simultaneously to shore up national unions’ solidaristic wage policies and facilitate government efforts to bring down inflation. Elsewhere, the reforms that followed the strike wave initiated a decentralization of collective bargaining on the vague and sometimes desperate hope that national unions would somehow be able to impose a measure of discipline on their newly empowered workplace representatives. But the overall tendency was always the same: *to increase the representativeness of workplace industrial relations by making space for effective expression of workplace-specific worker interests*, so as to prevent a recurrence of the breakdown of central governance that had in 1968 and 1969 so fundamentally shaken the industrial and political order.

It is important to note that there was general consensus, again across nations

and classes, that restoration of social peace at the workplace was impossible short of major steps toward genuine representation. Paternalistic solutions, like expanded voluntary consultation, were never seriously considered. Governments and employers all over Europe assumed as a matter of course that union substitutes would not do the job and that the only realistic policy was to allow unions into the workplace lest other forces, less responsible and more difficult to include in macroeconomic stabilization efforts, absorbed the discontent and thrived on it. At the same time, increasing the representativeness of workplace institutions required different approaches and was differently risky in different countries. It was comparatively easy in West Germany, where, given the way industrial relations had developed after the war, the solution that offered itself was to satisfy long-standing union demands for more rights for works councils and, in general, for expansion of co-determination.

Comparative analysis reveals the logic of this approach to deviate significantly from received accounts. In many cases the German strike wave had been led, not by unorganized activists or *Vertrauensleute*, but by works councils, certifying the councils' meanwhile developed status as de facto local unions and demonstrating to national unions and employers that the political capacities of well-organized councils far exceeded what the law had intended them to have. The Works Constitution Act of 1972 was passed by a reform government, led by the Social Democratic party, at the demand of its main political allies, the unions. Far from intending to keep the unions out of the workplace, it actually brought them forcefully into it, albeit in a form that was least threatening to centralized collective bargaining and to the unions themselves. This the act accomplished in three ways: by expanding the rights to information, consultation, and co-determination of the meanwhile thoroughly unionized works councils; by improving the access and strengthening the links of external unions to councils; and by confirming the councils' strict exclusion from wage bargaining, thereby protecting the primacy of external unions in this area, formally over the works councils, but actually and more importantly over the internal unions that German councils had in the meantime become. In this way, the 1972 legislation accomplished the remarkable feat of extending the powers of workplace union organizations vis-à-vis the employer while at the same time stabilizing centralized collective bargaining, and in fact did the latter in part by doing the former.⁸

The German solution to the Europe-wide problem of how to increase the

8. It might be mentioned that at the time even more ambitious projects were pursued by German unionists that remained unrealized in the 1972 legislation. Perhaps because (partly) representative works councils were already an established element in German industrial relations, some union groups had already begun to think beyond the immediate exigencies of the period and developed concepts of more decentralized and direct participation, especially of work groups, in the organization of work (*Mitbestimmung am Arbeitsplatz*). In the early 1970s these were rejected by a majority of union leaders, who were afraid that they might undermine union and works council representation. Today, in the context of post-Taylorism work reform, they have forcefully returned on the agenda.

representativeness of workplace industrial relations without destroying the possibility of macroeconomic concertation—and indeed in order to preserve it—had many facets. But in the main it involved a *merger* of a range of *representative functions* typically performed by unions into the *structure of consultation* between employers and their workforces that had been created after the war to support *cooperation* in production. By enriching consultation with representation—a pattern that, as has been noted, had begun to develop long before the crisis of the late 1960s—the German approach saved consultation from attrition. By including representative bodies in workplace cooperation, it also bridged the cleavage between cooperation and representation and overcame the association of representation with adversarialism that was so characteristic of the initial postwar structure of industrial relations elsewhere. In the process, as they became associated with representation—that is, the expression of interests and the exercise of rights—consultation and cooperation ceased to be merely voluntary and became more reliable and trustworthy for both sides. Merging workplace consultation and representation also, at least for a while, shielded centralized distributive bargaining in Germany from both excessive conflict and excessive cooperation at the workplace.

The genius of this approach, and the advantages it bestowed on German industrial relations and the German economy in the difficult 1970s and 1980s, can best be seen in comparison with other countries. By and large, *the same merger of consultation and representation was to occur there as well*, in response to changed and very demanding economic conditions, but later, less comfortably, and often precariously incomplete. Where, as was the typical case, the postwar council system had withered away or forever lost the respect of the unions, there was in the years following the strikes simply no possibility to integrate the new functions of workplace representation in a preexisting consultative-cooperative structure. A partial exception to this was the Netherlands, where a strong legal foundation had preserved the consultative council system of 1950 in spite of its paternalistic elements. Here the government in 1971 half-heartedly reformed the councils to increase their representational capacity—only to find itself forced to follow up with another law in 1979 finally turning Dutch works councils into worker-only bodies, and in fact making them more similar to their German counterparts than ever.

Everywhere else, the issue on the agenda at the time was not yet to combine representation with consultation, but to enable the unions as the only plausible representative agents of workers and as the lesser evil compared to unorganized workplace activists, to insert themselves in the organizational space of the workplace. Already in 1968, the French state found it advisable to legalize the workplace union sections that had formed during the general strike and to impose legal obligations on intransigent employers not to stand in their way. Not much thought, if any, was given to empowering the 1945 councils as an alternative. The same applied to Italy, where in 1970 the *statuto dei lavoratori*, rather than strengthening the old internal commissions—which would have

appeared patently absurd at the time—created a legal base for union organization at the workplace. And in Sweden, unions and the Social Democratic government bypassed the more or less defunct works councils that had been created under the national agreement of 1946, even though they were exclusively union based, and instead expanded industrial democracy by expanding union rights to collective bargaining, deriving what was referred to with the German word, *Metbestemning*, from the general right of unions to represent their members.

Nota bene that law played a central role in the institutionalization of workplace representation, not only in Germany and the Netherlands, but even in countries where the postwar council system had been founded on collective agreement, and even where the representational mechanisms that were being created were union based, as in Sweden and, certainly formally, in Italy. This is why the unofficial strike wave of the late 1960s was followed by the second postwar wave of legislation on workplace industrial relations, beginning with France in 1968 and arguably ending with the same country in 1982 (table 11.1). Indeed the main events were concentrated in the early 1970s—disregarding the late date of the Spanish legislation which reflected the uncertainties of the transition period, the second Dutch law, and the protracted union-employer negotiations in Sweden subsequent to the co-determination legislation of the 1970s.

The importance of legal intervention for the greater representativeness of workplace industrial relations is shown by its use even in Sweden and Italy, where it immediately raised puzzling questions of how to accommodate non-unionized workers in a system in which unions were to hold exclusive legal rights to collective representation. Different, and differently awkward, solutions were found. While in Sweden the matter was resolved by the sheer force of numbers, nonmembers of unions being a tiny minority, in Italy workplace union organizations were pragmatically opened by the unions themselves to nonmembers,⁹ first to absorb and domesticate the radicalism of the spontaneous council movement of the *autunno caldo* and later to ensure that workforces spoke, and cooperated, with the employer with one voice.

As remarkable as the ingenuity with which in particular Italian unions responded to the potential conflict between worker and union representation is the fact that even the strongest unions could not rely on their strength alone in establishing themselves as representatives in the workplace. Employer voluntarism was nowhere seen as a solution. Nor was collective bargaining, mostly because employer resistance, when it came to the crunch, was too strong, and also because workplace representation was to be established as a general right of industrial citizenship regardless of one's place of employment. Where such rights could not be vested in existing nonunion structures, and where the repre-

9. This included, e.g., the possibility of unions "legitimizing," i.e., awarding formal status as a union workplace representation to, a newly founded works council in a nonunionized plant.

Table 11.1 **Dates of Major Legislation on Workplace Representation**

Year	D	NL	F	E	S	I
1945			1945			1943 ^a
1946			1946		1946 ^a	
1947				1947		1947 ^a
1948						
1949						
1950		1950				
1951						
1952	1952					
1953						(1953) ^a
1954						
1955						
1956						
1957						
1958				(1958)		
1959						
1960						
1961						
1962						
1963						
1964						
1965						
1966						(1966) ^a
1967						
1968			1968			
1969						
1970						1970
1971		1971				
1972	1972				1972	
1973						
1974					(1974)	
1975				[1975] ^b		
1976						
1977					1977	
1978						
1979		1979				
1980				1980		
1981		(1981)				
1982			1982		1982 ^a	
1983						
1984						
1985				(1985)		
1986						
1987						
1988						
1989	(1989)					
1990				(1990)		

Notes: Country abbreviations are D = Germany, NL = the Netherlands, F = France, E = Spain, S = Sweden, and I = Italy. Parentheses indicate years of minor legislation.

^aNational collective agreement.

^bBeginning of transition to democracy.

sentativeness of workplace industrial relations could be increased only through an expansion of union rights—the case everywhere outside Germany and the Netherlands—governments agreed to expand union rights by law, whatever the legal and constitutional difficulties, taking into account that unions on their own were unable to gain such rights.¹⁰ And needing urgently to insert themselves in the new representational structures in the workplace, unions were willing to call in the state even where they had traditionally been deeply opposed to legal intervention and, as in Sweden, recourse to legislation was certain to jeopardize established collective bargaining relations with employers.

11.5 Return of Consultation

Where, unlike in Germany and the Netherlands, the legally established representational structures of the 1970s could not be attached to a preexisting system of collective consultation, elements of consultation were gradually infused into them in subsequent years, recreating in a new context features of the first postwar council system that had fallen by the wayside in most of Europe during the reconstruction period, and reproducing in a remarkable case of functional convergence certain key properties of the German and Dutch systems. Again, this happened along very different national trajectories and with very different consequences for unions, employers, and the character of their mutual relations.

The fusion of representation and consultation into what may be called a new, integrated system of *workplace participation* developed least in Spain. Although legally based, the Spanish works council comes closer than any other mechanism of workplace representation in Europe to a workplace union organization pure and simple. In part, this is because Spanish councils have remained agents of wage bargaining. But even more important has been the refusal of the Spanish government in the mid-1980s to continue to support centralized wage settlements through some form of neocorporatist political exchange, together with an economic policy that, perhaps inevitably, made the scrapping of outdated industrial capacity its first priority even at the cost of very high unemployment. In this political environment, Spanish unions and works councils typically find themselves reduced to defending their members' and voters' jobs, using what little power they have to resist industrial change. Constructive participation in joint consultation is further impeded by vigorous interunion competition. Moreover, having become associated with the defense of declining industries and traditional labor market rigidities, Spanish unions and works councils are not regarded by employers or, for that matter, by the Socialist government as useful partners for collective consultation on produc-

10. In Spain, given the peculiarities of the country's history, the works council legislation of 1980 was effectively union rights legislation—whereas, e.g., in Italy the union rights legislation of 1970 was effectively the equivalent of works council legislation.

tion, which further reduces the possibility of consultative functions being performed by the council system.

More instructive than the Spanish is the French case. Unlike in Spain where the central objective of employers was to establish and exercise their right to shed labor, French employers felt economic pressures in the 1970s to "involve" their workforces more deeply in production and began to invest heavily in the development of "social relations" at the workplace. In their effort to reduce the distance between management and a traditionally indifferent and suspicious workforce, however, French employers were unable and unwilling to make use of existing institutions. The postwar works councils having largely disappeared, neither the union-dominated personnel delegates nor the new workplace union sections seemed suited to serve as conduits for collective consultation, and indeed neither the unions nor the employers themselves were willing to rebuild them for the purpose. In fact, intent as ever on excluding the unions from the sphere of production, French employers perceived the lack of interest among unions in collective consultation, and the limited capacity of the existing workplace institutions to support it, as an opportunity rather than a liability. In the 1970s, they aggressively began to set up union-independent structures of direct participation controlled by themselves, aimed at both increasing worker involvement and reversing the 1968 advance of unions into the workplace.

As the French country chapter shows, while the strategy was quite successful with regard to its second, more implicit objective, it failed to overcome the limits of unilateral consultation without representation in generating cooperation between employers and employees. The Socialist government after 1981 tried to resolve the impasse with its Auroux legislation, which was an attempt to bring the unions as co-governors into the emerging employer-controlled direct participation system, to shore up both its legitimacy and the unions' representative capacity. In an important sense, this was intended to replicate the German fusion of representation and consultation under French conditions by connecting the enterprise committee, the most works-council-like of the three legally supported institutions in the French workplace, both to the representational functions of unions—through the promotion of enterprise collective bargaining—and to the social policies of the firm—through its new role in regulating workforce "expression."

Many problems persist, however, and indications are that the French attempt in the 1980s to institutionalize workplace participation in law failed to break the impasse of the 1970s. A fundamental difficulty with the French system seems to be that the capacity of enterprise committees to represent worker interests is weak, due to both employer resistance and the occupation of crucial representative functions by older layers of workplace institutions unconnected to collective consultation. Adding to the problems is a rapid decline of unions, which itself seems partly caused by the latter's inability and unwillingness to play a role in workplace consultation and cooperation, forcing them to concede

cooperative social relations and the worker interests that enter into them to unilateral employer control. As a result, both the Auroux reforms and the new human resource policies of employers seem to have become stuck halfway, as reflected in a pervasive sense of stagnation and institutional deficiency, a growing "representation gap," and the efficiency gains of worker involvement remaining behind what is regarded as desirable.

A strikingly different situation developed in Italy, where in the 1980s in particular collective consultation through works-council-like bodies returned, often quite unintendedly, under the auspices of the system of institutionalized workplace representation that had developed on the basis of the *statuto dei lavoratori*. Among the factors that make the Italian case so remarkable is that there is nothing in Italian law that requires union workplace organizations to cooperate with the employer in production matters, or that obliges employers to consult with unions or councils or concede them rights to co-determination. Nevertheless, as the Italian chapter shows, Italian union workplace organizations, encouraged by both employers and unions, have today on a broad scale assumed core participative functions of works councils, testifying to the high incentives for firms and workforces in the 1980s and 1990s to work together to improve productivity and efficiency, and constituting a classic case of the general trend in European industrial relations, after the institutional reforms of the early 1970s, toward functional and structural merger of workplace consultation and representation.

Comparing Italy to France, one cannot escape the conclusion that differences in union power and its legal institutionalization must have contributed importantly to the different outcomes. Unlike their French counterparts, Italian employers typically did not try to introduce new forms of work organization, worker participation, and personnel management against the unions, not to mention using work reorganization to deunionize their workforces. Certainly, in part this was because of the strong productivist traditions of the Italian union movement and because in Italy union participation in production issues was much less likely to become a theme of ideological interunion competition than in France. But even so, Italian employers could not possibly have hoped to break their unions in the same way French employers obviously did. When economic needs for cooperation became more pressing, they therefore did not waste time and energy on predictably fruitless and unproductive efforts to create a "union-free environment" in their plants, but instead constructively and creatively explored the possibility of establishing cooperative relations with their workforces. In this they were highly successful, in part because Italian unions, in turn, felt safe enough to offer themselves as agents of workplace participation without fear of losing their representational status and capacity.

The Swedish case is astonishingly similar to the Italian one, which is all the more remarkable since many of the contextual conditions are radically different. In Sweden, too, the union-controlled representative institutions that had been created by legislation in the 1970s later became the basis for a resumption

of cooperative collective consultation in the workplace. When cooperation in production was rediscovered as essential for economic performance, it was consensually grafted onto workplace institutions that had originally been meant as channels for unions representing the interests of their members through collective bargaining rather than as sites of joint deliberation of employers and workers on how to improve efficiency. Just as in Italy, the initiative seems to have come more from the employers than the unions, but it was later fully embraced by the latter. With time, the militant resistance of Swedish employers to the co-determination legislation of the 1970s gave way to the insight that, with unions stronger than anywhere else in the world, work reorganization was possible only if consensually mediated through the same representative institutions that employers had earlier rejected as interfering with their right to manage. And, with an ideological tradition that was arguably even more productivist than in Italy, Swedish unions, firmly established in their positions, were in turn prepared to recognize that representation of workplace-related interests that excludes cooperative interests in economic performance does so only at its own peril.

In Sweden, and even more so in Italy—that is, in the two countries in which workplace representation is based on unions only—whatever limits the new configuration of representation and consultation places on managerial prerogative are typically not formalized in law or collective agreement. This, of course, is quite different from Germany and the Netherlands with their—union-infused—statutory works council systems, in which what management may and may not do tends to be formally regulated in great detail.¹¹ Compared to the latter two countries, many of the consultation and co-determination rights that Italian and Swedish employers concede to their workforces appear on the surface to have been conceded voluntarily—with Swedish co-determination, for example, often taking place in the absence of a local co-determination agreement and formally regardless of the respective legislation. Further inspection, however, and comparison with a country like France make clear that such “voluntarism” depends vitally on a balance of forces of which strong local and national unions are an essential part. Moreover, there are also reasons to believe that even with considerable union strength, employer voluntarism can provide no more than an unstable base for consultation-cum-representation, mainly because it offers employers more options than worker representatives and considerably more control over workplace cooperation than unions. It is for this reason in particular that, on the one hand, there are strong voices among Italian unionists that argue for some kind of legislation on both industrial democracy and union rights so as to make representative consultation and workplace participation less dependent on the goodwill or enlightened self-interest of employers, and that, on the other hand, many Swed-

11. In France and Spain, where unions are weak and works council rights limited, management prerogatives are by and large not interfered with, neither formally nor informally.

ish observers are growing increasingly concerned about an impending "Japanization" of the country's industrial order.

What were the structural forces that brought about the interpenetration of consultation and representation, and the growth of a new kind of workplace participation, that we have observed in so many European industrial relations systems in the 1970s and 1980s? While we have no first-hand observations on this, the papers in this volume unanimously point to certain fundamental changes in the organization of decision making and production that occurred during the period. In the Fordist decades immediately after the war, decision making in most firms was centralized, and consultation served to improve the information available to top management, as well as to prepare the ground for the implementation of managerial decisions. Interest representation was conceived as entirely dissociated from this process, especially since decisions on work organization were supposed to be determined by the progress of technology and industrial engineering. As we have seen, these assumptions contributed to the decay of the first wave of consultative arrangements after the war.

All this began to change in the 1970s. With the broad move from mass production to flexible production, the number of decisions and the speed with which they had to be made increased dramatically—so much so that managerial decision making had to be radically decentralized, altering fundamentally the kind of productive cooperation that was required from workforces. With the new intensity of decision making characteristic of the new, flexible organizational structures, what firms needed were no longer just the experiential knowledge and the passive compliance of workforces, as potentially produced by traditional forms of—nonrepresentative—consultation, but their *consensus*: their willingness to agree to continuous changes in rules and work procedures under high uncertainty, as well as their *involvement* and *commitment*: their willingness themselves to make decisions guided, not by bureaucratic rules or superiors, but by internalized organizational objectives. Consensus, involvement, and commitment, however, require that workers develop an active *interest* in their work and "their" firm—or rather that the interests they have in the firm be activated and redefined so as to make them contribute to the efficient organization of the production process. Worker interests also come into play because of the growing number of alternatives in work organization that result from the high malleability of new technology and work arrangements like teamwork, which inevitably *raise questions of interest whenever questions of efficiency are raised*, and give rise to a need to *settle both kinds of questions simultaneously*, rapidly, and on a day-to-day basis, at all organizational levels and not just at the top of the organization.

In post-Fordist firms, that is, consultation on production needs and representation of worker interests tend to be even less separable than in traditional work organizations. Where under a system of decentralized competence, major production decisions are made, not by "management," but by workers as part of their routine work assignments, *consultation between workers and manage-*

ment on how to increase efficiency becomes impossible to keep apart from negotiations on the mutual accommodation of interests. In flexible work organizations, effective interest representation, be it by works councils or by unions, requires deep technical and managerial knowledge that can only be gained through consultation, as well as day-to-day influence of workforces on the organization of work at all levels through ongoing consultation or, better, co-determination. As a consequence, unions as representative organizations can be expected to develop an interest in becoming involved in consultation over productive cooperation even if they have rejected such involvement in the past. Similarly, *efficient production* in post-Fordist organizations requires integration and accommodation of workforce interests, typically in an "organizational culture" that can substitute for prescriptive bureaucratic rules and centralized decisions. Managements, for their part, are therefore likely to become interested in having partners for consultation *that can also represent the interests of workers and commit the workforce as a collectivity* even if in the past they had been strongly opposed to any collective expression of interests at the workplace.

The observed fusion, then, of consultative functions into representational structures, as in Italy and Sweden, or of representative functions into consultative structures, as in Germany and the Netherlands, would seem to reflect a realization on the part of management of the *importance for consensual production of effective representation*, and on the part of unions of the *importance for effective representation of being involved in productive cooperation*. As we have seen, the new configuration of consultation and representation developed unevenly, depending among other things on existing institutional conditions and ideological worldviews.¹² A country like Germany that, more or less by accident, happened to have the right structures in place when the need arose was economically advantaged by it. In Sweden and Italy, the logic of post-Fordist production requirements asserted itself even against the institutional odds and resulted in a renaissance of consultation within primarily adversarial institutions. In France, on the other hand, and certainly in Spain, employers continued to oppose representative institutions at the workplace, while unions did not see it as their task to become involved in the management of produc-

12. But elements of it are present even in countries where one would not have expected them. As Paul Marginson pointed out in a lecture in December 1993, drawing on two recent, comprehensive surveys of workplace industrial relations in Britain, joint consultative committees of management and labor are present in no more than 25 percent of British workplaces. Where workforces are unionized, however, i.e., *where there is institutionalized interest representation to supplement consultation*, joint consultative committees are twice as common as in nonunionized workplaces. Among large companies, group-level consultative committees exist in 75 percent of firms where unions are recognized at all establishments but only in 45 percent of firms where they are recognized at none. And direct forms of participation, such as team meetings and quality circles, are more common in unionized than in nonunionized settings, and in large companies they are particularly frequent where unions are recognized throughout and where there is in addition a group-level consultative committee.

tion; here the transition to a post-Fordist mode of organization, with the competitive advantages it entails, proceeded less smoothly.

In any case, what happened in the 1970s and 1980s in continental European industrial relations systems was the rise of a new system of *workplace participation*, sustained by either unionized works councils or “councilized” workplace unions, through collective bodies at the plant and enterprise level as well as directly on the job, that differed from postwar consultation in that it included a strong element of worker *interest representation*. But it also differed from the traditional mode of interest representation in industrial relations, collective bargaining, in that it did not extend to and remained carefully insulated from wage setting; operated on the basis of legal or contractual rights to information, consultation, and co-determination rather than the power to strike; and was primarily concerned with *negotiating consensus* on the myriad of qualitative microdecisions required in a flexible, post-Taylorist organization of work. Functionally, the emerging new form of workplace participation, in some countries more and in others less, supported a new kind of *cooperation* between management and labor at the point of production: a kind of cooperation that consists in the mutual accommodation of interests through institutional arrangements for continuous co-decision making and co-determination, as opposed to both the passive acquiescence of workforces to employer decisions under the old, often paternalistic consultation regimes, and distributive conflict over the results of productive cooperation.

11.6 Role of Unions and Wage Bargaining

What institutional conditions favor representative participation at the workplace, and what are the consequences of different forms of workplace industrial relations for unions, employers, and economic performance? Beginning with unions, it would seem that *union strength and unity* are important factors for successful blending of consultation and representation. In France and Spain, where representative consultation is least developed, unions are far weaker and interunion competition is stronger than in the four other countries (table 11.2). In Sweden, by comparison, union strength ensures the representativeness of council-like consultative arrangements, although increasingly competitive multiunionism invites employer attempts to weaken external union influence through “coworker agreements.” Near-monolithic union unity in Germany helps compensate for no more than moderate union density, whereas in Italy potentially strong interunion competition would seem to make representative consultation somewhat less stable and effective than in Germany or Sweden.

The impact on the unions of different institutional forms at the workplace is difficult to discern. In Germany as well as Italy, participation in works-council-like structures—legally based in the former and union based in the

Table 11.2 Works Councils and Unions

Country	Union Density (%)	Union Competition	Percentage Nonunion on Councils	Direct Union Delegates on Councils	Separate Union Workplace Organizations?	Wage Bargaining Centralized?	Councils Bargaining on Wages?
D	38	Marginal	21	No	Sometimes	Yes	No, not possible
NL	26	Considerable	36	No	Rarely	Yes, but eroding	Possible but rare
F	10	Very strong	29 ^a	Yes, but no voting rights	Frequently	Yes, but decentralizing	No, not possible
E	10-15	Very strong	4 ^b	Yes	Normally	Increasingly decentralizing	Yes
S	85	Increasing	Not applicable	Only	Not applicable	Increasingly less	No
I	39	Potentially strong	8	Yes	Rarely but increasingly	Periodically	Yes, sometimes

Note: See table 11.1 for country abbreviations.

^aPlus 5 percent for unions other than the five main federations.

^bPlus 12 percent for union other than the three main federations.

latter country—is said to have both increased union density and, to different degrees, helped contain competition. In Sweden, density has recently been growing even further, at a time when unions have become ever more widely and deeply involved in workplace participation. And in France and Spain, density has been rapidly falling, amid sharp interunion conflict and with representative consultation hardly developed. In fact, in Spain the legal institutionalization of works councils may have caused union substitution effects. Union substitution is also suggested in the Netherlands, where, unlike in Spain, workplace industrial relations are relatively cooperative. More important than conflict and cooperation, however, seems to be that in both countries, and in France as well, interunion competition prevents unions from using their positions on works councils for the recruitment of members—which is common, although at best semilegal, in Germany. In Italy and Sweden, of course, the problem does not pose itself because workplace representation is institutionally union based—which regardless of multiunionism gives all major unions an opportunity to benefit organizationally from councils.¹³

Nonmembers of unions are numerically important on works councils in the Netherlands and France, where density is low, competition is strong or very strong, and councils are legally based (table 11.2). Note, however, that the same conditions apply in Spain, where unorganized council members, even including members of small, “nonrepresentative” unions, are much less frequent. The difference may be due to the closer institutional links between councils and unions in Spain, as indicated by the legal provision for direct union delegates to councils, which parallels the Italian situation and generally underlines the *de facto* character of Spanish works councils as unified—or better: *federated*—union workplace organizations, rather than a “second channel” of representation. With higher union density and less interunion competition, German works councils have fewer nonorganized members than Dutch and French councils, but being genuine second-channel institutions they have more than Spanish councils. In Sweden and Italy, unorganized membership is not a problem because councils are union based, although Italian unions do as a matter of policy accept unorganized workers as works councils members. In all countries, whatever the institutional base, nonmembers of unions are less frequent among works councillors than among the workforce at large, with unions under all institutional arrangements routinely winning a share of council seats that comfortably exceeds their density ratio.

Union workplace organizations distinct from works councils are more likely to exist where the fusion of representation and consultation is least advanced (table 11.2). In France and Spain, competing unions usually have their own workplace branches, low density rates permitting. In the Netherlands, by com-

13. In other words, legally based councils seem to benefit unitary union movements but weaken divided unions, and unions in competitive union systems have a greater interest in councils being union based than do unions in unitary systems.

parison, union branches are rare in spite of considerable union competition, probably because legally well-resourced councils absorb and satisfy most representational needs. In Germany, the system of *Vertrauensleute* has typically evolved into an organizational infrastructure for the works council, to the extent that the latter became more representative and was adopted by the unions as their chosen instrument for workplace interest representation. Swedish unions do have separate workplace branches ("clubs"), but it is exclusively these that control consultation and cooperation, as well as make up any specific bodies created for that purpose. In Italy, separate union branches emerge when interunion competition intensifies, indicating a potential weak spot in the Italian pattern of unified union workplace organizations operating as *de facto* works councils.

Comparing the six countries, it is less than completely clear whether and to what extent *decentralized wage bargaining* interferes with representative participation (table 11.2). Looking only at Germany and Spain, the conclusion seems to offer itself that works councils can be agents of such participation only if they are not involved in wage bargaining.¹⁴ Until some time ago, the Netherlands and Sweden would have easily confirmed this. Recently, however, wage bargaining has become less centralized in those two countries, and while this may be the beginning of the end of representative consultation, it is far from clear that it must. Note that in Italy, councils sometimes do act as wage bargainers without, apparently, having to give up their role as agents of workplace participation. Also, the French case shows, *e contrario*, that excluding councils from wage bargaining as such does not yet ensure that consultation will become representative. What the six cases would seem to suggest is that the important factor may not be whether councils do or do not act as wage bargainers, but the extent to which wage bargaining is centrally coordinated—as, for example, in Italy, where wage bargaining may be deliberately shifted to the enterprise level by the national union confederations in response to changing political and economic conditions but can be recentralized if required by new circumstances.

External union control over works councils is always precarious and never fully assured, but this applies to union workplace organizations in general, institutionalized as works councils or not. Subtle and less subtle power struggles between external unions and workplace representatives take place even in the two union-based systems, Sweden and Italy. Organized in whatever form, institutions of workplace representation will always give expression to interests that must appear "particularistic" from an external union perspective, especially to the extent that they are not exclusively distributive. Whether Swedish,

14. Of course, German works councils do play a role in wage bargaining, but only marginally, tacitly, and mostly illicitly. While that role has recently grown somewhat, the important point is that German councils cannot call strikes over wages, which inevitably makes their activities in this area secondary to those of the unions.

Italian, or German external unions have more control over interest articulation and labor-management cooperation at the workplace is therefore an open question that cannot be decided simply with reference to the three countries' different legal and organizational conditions.

Even where workplace industrial relations are conducted through works councils formally separate from unions, the latter are given a range of privileges inside the council system to ensure its representativeness, to prevent it from obstructing unions as organizations, and perhaps to buy unions' acquiescence to legal intervention. In Germany, the Netherlands, France, and Spain, election rules give large national unions sometimes massive advantage over splinter or nonunion groups. Also, external union officials have legally based rights of access to councils and council meetings, formally to offer advice, but *de facto* also to influence council policies. Typically, councils are obliged in law to consult and cooperate, not just with the employer, but also with the unions. In most countries, they also have the right as well as the duty to help national unions with the local enforcement of legal regulations and industrial agreements, enabling unions indirectly to define a potentially large part of the councils' agenda.

There also is in general an intense *exchange of material support* between unions and works councils. While works councils differ in size (table 11.3), most of their seats are taken by union members. Council legislation thus creates a large number of legally protected positions (see table 11.4, last column) to which union activists may be elected and in which they may conduct not just council but also union business. In this respect in particular, union-

Table 11.3 Legal Size of Councils by Size of Establishment

Country	Size of Establishment (number of workers)			
	50	100	500	5,000
D	3	5	9	27
NL	3-5 ^a	7	11	21
F ^b	3(+3)	5(+5)	6(+6)	12(+12)
E ^c	3	5	13(+1)	31(+4)
S	Subject to collective agreement or informal understanding, under a general legal right of unions to initiate co-determination procedures			
I ^d	3	3	6	42

Note: See table 11.1 for country abbreviations.

^aEnterprises with between 35 and 100 workers may elect between three and five workforce representatives.

^bEnterprise committees. Number of substitute members allowed to attend meetings but not to vote is given in parentheses.

^cNumber of additional, directly appointed union representatives is given in parentheses.

^dMinimum number of union representatives (RSA) under the Workers' Statute, assuming the presence of all three union federations. Actual numbers are often higher as a consequence of industrial agreements and due to inclusion of elected delegates not designated as union representatives.

Table 11.4 Size and Coverage of Council System

Country	Minimum Size of Establishment (number of workers)	Number of Eligible Establishments	Percentage of Workforce Eligible	Percentage of Establishments Covered	Percentage of Eligible Workforce Covered	Number of Council Members
D ^a	20	112,000	70	35	50	183,700
NL	35 100	11,000 4,500	55 18	44 83	50 87	20,000 34,000
F ^b						
PD	11	141,500	74	43	70	285,000
UD	50 ^c	29,800	50	51	70	42,500
EC	50	29,800	50	79	79	108,000
E	6 50	212,000 20,000	37 47	45 70	60 75	132,000 ^d 105,000 ^d
I ^e	16	50,000	64	64	70	206,000

Notes: See Table 11.1 for country abbreviations. No data on Sweden since arrangements are local and informal.

^aEstablishments with a workforce between 5 and 19 have a works council that consists of just one member, which has fewer rights than works councils in larger firms.

^bPD = personnel delegates; UD = union delegates; EC = enterprise committees.

^cFewer if stipulated by industrial agreement, or where personnel delegates have been elected.

^dExcluding public administration.

^eRSA under the Workers' Statute. Numbers refer to manufacturing and services in the early 1980s, when the system was most extensive.

independent councils are actually not much different from legally protected union workplace organizations. Unions benefit in particular from the legal rights of council members to be released from work at full pay. To the extent that the operating costs of councils are borne by the employer as part of the general costs of workplace governance, council legislation *de facto* provides for mandatory subsidies from employers to unions, or for a union tax on businesses. For example, where the law gives council members the right to receive training for their functions, employers may have to pay their wages while they attend union training courses, and may even have to pay the course fees.

That unions should benefit from works councils is an inevitable consequence of the *de facto* unionization of statutory council systems in the 1970s and 1980s, which made consultation more representative and thereby revitalized it. Where councils are not formally union bodies, unions may have to offer them technical assistance, expert advice, training, and so forth, in exchange for being allowed to share in their material or political resources. In Germany, national union headquarters invest considerable effort in maintaining connections with the works councils of large firms; smaller firms are serviced by regional or local union offices. Works councils that can find other sources of support may be less inclined to subsidize the unions and would tend to be more politically independent. In Italy, on the other hand, where council resources are formally union resources, it seems that councils sometimes receive material support from the external union.

It is hard to say in which country's unions derive the highest material benefits from councils. Germany and the Netherlands come to mind where works councils have extensive rights to financial support from the employer. But in both countries the unions must in turn be useful to the councils; otherwise, councils may refuse to share their resources with them. German unions especially are forced to expend vast resources on providing councils with advice and guidance on a current basis. In Spain, and partly in Italy, the large size of councils (table 11.3) may point to certain clientelistic functions of the council system, especially in Spain where during the transition the activists of two large, competing unions seem to have been bought into gradualistic reform by large-scale paid release from work at the expense of the employers. French unions, by comparison, seem to draw relatively little organizational benefit from enterprise committees, but then they may not have to given the existence of the, also legally based, union delegates.

11.7 Role of Legal Intervention

As has been noted, in no country is the institutionalization of workplace representation, either as such or fused into consultative practices, left to employers' self-interest or paternalistic sense of obligation. Works councils in Germany, the Netherlands, France, and Spain, and union workplace branches in France, Sweden, and Italy, are not legally *mandated*, so there may be work-

places where they do not exist. But setting them up is easy as it requires no more than pro forma triggering activities by external unions or a very small proportion of the workforce. What is important is that employers are barred from interfering and indeed play no role at all in the process save an entirely passive one. Typically, employers obstructing the creation of a works council or a union workplace branch are threatened with severe legal sanctions. While all legal systems allow for residual voluntary elements in setting up workplace representation, that voluntarism applies exclusively to labor.

Similarly, once councils or legally protected union branches have come into being, they may fall by the wayside or wither away due to lack of interest among workers or lack of attention and resources on the part of external unions. But there is no way for an employer to demand or bring about their formal disbandment. Once set up, legally protected representational bodies cannot formally be undone, not even by a majority of the workforce since this would deprive the minority of essential rights of industrial citizenship. For all practical purposes, works councils are permanent bodies, very much like city councils, and are viewed as such by both unions and employers. For employers in particular, attempting to make an existing council or union branch go away must seem futile, and in fact such attempts are so rare that they are never even mentioned in any of the country papers.

Another important function of legal intervention is to make representation *universal*, that is, to take it out of economic competition between firms. In all six countries, the percentage of the national workforce that is legally eligible for workplace representation is high (table 11.4). Countries differ most in their ambition to cover not just large but also small firms; often, as in Germany, France, and Spain, very small workplaces come under a somewhat different, less formally regulated regime. Actual coverage varies everywhere with the size of workplaces; as firms or plants get larger, coverage rapidly approaches 100 percent. Given the mixture that has developed in all European countries of voluntary and statutory elements in workplace representation, it is not surprising that actual coverage is affected by union strength, as in France and Spain where weak unions make for less than complete coverage even in the larger firms.

Other typical subjects of legal regulation are the resources that representative bodies are entitled to receive from employers; the rights of unions vis-à-vis legally based works councils where these exist; and the rights and obligations of councils or, where applicable, union workplace organizations in representing the workforce in relation to management, especially with respect to the exercise of managerial prerogative (table 11.5). Note that even in Sweden, the resources that employers have to provide for workplace representation are determined by law, in particular the Shop Stewards Act. Legislation typically sets a minimum to which representative bodies are entitled, allowing additional resources to be negotiated. Legal regulation of the employer's contribution is regarded as desirable by legislatures not only because it, again, helps take the

Table 11.5 Legal Resources of Works Councils

Country	D	NL	F	E	S	I
Board representation	Strong	Minor ^a	Weak	None	weak	None
Legal rights						
Information	X	X	X	X	X	X ^b
Consultation	X	X	X	X	X	X ^c
Co-determination	X	X			X	
Full-time release from work	Yes	Not by law	Not by law	As a legal option	Yes ^d	By workplace agreement
Training	Yes	Yes	Yes, but limited in fact	Not by law	Yes ^b	By workplace agreement
Control over social funds	No	No	Yes	Yes	No	No
Paid expert advice	Yes	Yes	Limited	No	Yes	By workplace agreement

Note: See table 11.1 for country abbreviations.

^aCouncils have limited influence on the selection of newly appointed board members, and may reject co-opted members.

^bBy national agreement.

^cBy workplace agreement, with increasing frequency.

^dFor union workplace representatives under the Shop Stewards Act.

costs of workplace representation out of competition but also because it protects the independence of representative bodies: if resources are received as a matter of right, they cannot be used by the employer to extract concessions. Legal entitlements thus help protect a council's or workplace union's legitimacy. Incidentally, all national systems assume that effective representative consultation is part of the governance of the firm and that its costs are therefore rightly paid by the employer, just as the costs of management. All systems also treat workplace participation as a collective good for the workforce, that is, one that the workforce cannot be expected to finance by voluntary contributions even though the workforce benefits from it.

Second, where the law creates union-independent bodies of workplace consultation or participation, legislators usually find it necessary to regulate in considerable detail their relationship to the unions, that is, the intersection of statutory and voluntary representation. Substantively, these regulations vary between countries, depending on the structure of unionism and the character of legally based institutions. As pointed out, union access to councils and council resources always receives strong legal attention as it concerns directly the way representation through unions is connected to consultation between workforce and employer, and to participation of workers in management.

Third, the law may regulate, more or less specifically, the representational rights and cooperative obligations of participation bodies vis-à-vis the employer. Where legislation lays down only broad principles or limits itself to

securing union rights, as in Italy and Sweden, information, consultation, and co-determination rights of workplace bodies may have to be specified by collective agreement; alternatively, interference with managerial prerogative may take place informally depending on local power relations. Where the law is very detailed, as in Germany and the Netherlands, and to some extent in France and Spain, employers tend to refuse negotiations over further participation rights, although at least in Germany expansion of such rights by collective agreement would be legally possible.¹⁵

The most important difference between national systems seems to be the presence or absence of co-determination rights for works councils (table 11.5). Where there are no such rights, the capacity of councils to veto or delay employer decisions depends entirely on the local or economic conjunctural power balance. In Italy, post-Fordist representation-cum-consultation seems to work without any formal co-determination rights of workplace unions or works councils; note, however, the recent demands by unions for some sort of industrial democracy legislation. The weaker councils of France and Spain have control over the social funds of firms, whereas stronger councils do not.¹⁶ While German works councils can draw on representation on company supervisory boards as an important additional institutional resource, there is no board representation in Italy and Spain, and only weak versions of it in the Netherlands, France, and Sweden, making the relationship between board representation and council strength hard to determine (table 11.5). All councils are in different ways involved in the local enforcement of applicable legislation and collective agreements, from which some draw considerable political and organizational strength.

Legal rights for works councils to information, consultation, and co-determination tend to be coupled with, and conditional on, legal obligations to cooperate with the employer in good faith, for example, to respect business secrets and not to engage in, as the English translation of the German Works Constitution Act puts it, "acts of industrial warfare." Such obligations are to ensure that councils do not become exclusively representative bodies and continue to attend also to functional needs for consultation and cooperation. Union workplace organizations are usually not placed under obligations of this kind, which is why some unions, for example, in Italy or France, prefer them over councils even though councils might give them more influence over the exercise of managerial prerogative. (Swedish unions, to the extent that they draw on their legal right to initiate co-determination procedures, are under a general

15. Rather than by collective bargaining, works council rights in Germany, and to some extent the Netherlands, are often extended by councils using legal co-determination rights to extract informal managerial commitments to consultation or de facto co-determination on other, unrelated subjects that the law has left under managerial discretion.

16. German councils do, however, have a legal right to full co-determination over company social policy and sometimes to the dismay of the unions become involved in running the cafeteria or the company's health insurance fund.

obligation to respect the economic needs of the firm, which is further elaborated by the national industrial Agreement on Efficiency and Productivity.)

It should be noted, however, that the absence of a legal "peace obligation" does not necessarily preclude cooperation, as demonstrated by the Italian case. Similarly, a legal obligation for works councils to engage in *vertrauensvolle Zusammenarbeit* (trustful cooperation) does not preclude conflict; most unofficial strikes in Germany are more or less openly led by works council members, with employers usually refraining from invoking the legal sanctions that exist for this. In Germany at least, the real functions of the peace obligation for councils seem to be related, not primarily to the relationship between works council and employer, but to that between the works council, as a de facto union workplace organization, and the union: by barring councils from calling official strikes and making it difficult although not impossible for them to call unofficial strikes, the law helps external unions preserve their strike monopoly. In this respect, the peace obligation serves a similar function as the legal prohibition on works councils engaging in wage bargaining.

11.8 Workplace Participation and Economic Performance

The contribution of representative consultation to economic performance, through works councils or union workplace organizations, is hard to establish quantitatively. There is in European systems no equivalent to the American nonunionized sector with which exact comparison (as, e.g., in Freeman and Medoff 1984) could be attempted: almost all firms in a country have basically the same or similar workplace institutions.¹⁷ Moreover, much of the economically beneficial influence of works councils, if it exists, is very likely to be in the fuzzy area of "X-efficiency" (Leibenstein 1987) where causes and effects are not easily traced.

Lack of quantifiability, however, does not mean that, as Gertrude Stein observed when visiting Oakland, California, "there is no there there." While international comparisons, especially in an age of economic interdependence, are not without considerable problems, one may note the conspicuous absence of representative consultation and effective workplace participation in such countries as Britain and the United States, whose economies have suffered most since the watershed of the 1970s, and its strong presence in Germany, Sweden, and Italy. To the latter list one may add Japan, where consultation, although

17. Econometric studies sometimes try to compare economic performance before and after major pieces of workplace legislation. The problems with this include the inevitably small number of yearly observations and the simultaneous influence of other factors, such as business cycles or exchange rates. Alternatively, one may use as the independent variable variations within one country in specific properties of workplace institutions to look for covariations with performance indicators such as productivity or profitability. One problem here is that the extent to which national systems allow for meaningful interfirm variations itself varies between countries. There also are conceptual difficulties of how exactly to specify the independent variable, as well as practical difficulties of access to reliable performance data.

probably more paternalistic than representative, seems to be standard managerial practice.

At the level of descriptive plausibility, the country studies in this volume suggest several ways in which the parallel evolution of representative consultation in European countries over the last two decades may have virtuously responded to economic needs and may have helped these countries master the challenges of post-Fordism. Such accounts receive some if not conclusive validation from the fact that, where representative participation is strongly established, employers often and typically express their satisfaction with it.¹⁸ One example is the advice given to German employers by their central research institute to consider the works council as a “factor of production” and an essential agent of information and communication within the firm: an institution that cuts transaction costs, improves the working atmosphere, and consolidates social consensus. Similarly, for Sweden it is reported that employers have made their peace with the Co-Determination Act and have come to accept “employee and union representation in the change process,” with the—American—CEO of Saab stating after the firm’s successful reorganization that “weaker unions would not have helped, to the contrary” (Brulin, chap. 7 in this volume).¹⁹

Expressions of employer satisfaction are also reported from the Netherlands and Italy. In the latter country, the widespread existence of informal participation arrangements may be interpreted, to quote, as “factual recognition of the importance of institutionalized workforce representation in the management of production”—a recognition that is all the more remarkable since it is “in sharp contrast to the official positions of both the external unions and the employers’ associations” (Regalia, chap. 8 in this volume). The confession of an Italian manager that, “if works councils didn’t already exist, one should invent them,” is reported to have been made in exactly the same words by a German employer and might as well have been heard from Dutch or Swedish employers.

More specifically, the papers in this volume mention a number of ways in which representative consultation contributes to economic performance. First, all papers point out that works councils, or council-like structures, *improve the flow of communication* both from the workforce to management and vice versa. As good communication is vital for modern business enterprises, this is widely regarded as extremely important. Second, especially the Dutch and the German chapters emphasize that councils *improve the quality of decisions*, though sometimes delaying them; as well-resourced councils can ask detailed questions and offer counterproposals, managements must scrutinize their own projects more, making it more likely that flaws are discovered early and that the range of alternatives is enlarged. Third, representative consultation *facilitates*

18. Validation is not conclusive because one must never underestimate the capacity of interviewees for verbal opportunism.

19. Note that the Swedish central agreement of 1982 on the implementation of the Co-Determination Act is called the “Agreement on *Efficiency* and Participation,” in this order (emphasis added).

the implementation of decisions, something that is emphasized in the Dutch and Italian country studies especially: a management decision that has been made with representative informational and political input from the workforce is more easily carried out later, and this may more than make up for the longer decision time.

Fourth, councils in all countries, perhaps with the exception of Spain, have been found to place pressure on firms to *rationalize their human resource policies*, expand their time horizon, and emphasize the creation and retention of high and broad skills. In this respect, works councils and unions seem to have been a major source of organizational innovation, something that is perhaps particularly visible in the case of German co-determination. Fifth, the Swedish and Spanish chapters mention a contribution of workplace participation to *reducing absenteeism*. Sixth, apparently participation helps firms *handle worker grievances*, not least by encouraging workers to come forward and speak up without fear of retribution. Apart from its negative impact on social peace, worker dissatisfaction may be indicative of general organizational deficiencies, and by expressing themselves workers may add importantly to the information of top management. Seventh, participation also provides *feedback on its middle management* to the top of the organization, something that is mentioned in the Italian study especially. Eighth, the Dutch study emphasizes the advantages of works councils for a customized and flexible, that is, locally negotiated, implementation of regulatory law, something that is likely also to apply in most other countries.

Representative consultation seems to have been particularly useful to firms that try to move to a *flexible and decentralized organization of work and decision making*. This conclusion is far from trivial since especially well institutionalized works councils have often been expected to object to the delegation of managerial decision rights to the shop floor, for example, to semiautonomous working groups, on the ground that this would reduce the capacity of their management counterparts to negotiate with them. Indications are that at least German works councils in fact did at first resist work groups and "quality circles" for such reasons. In recent years, however, this has dramatically changed, and works councils in Germany, just as in Sweden and Italy, have become forceful and active proponents of, to use the Swedish term, "work development." Especially in Sweden, but also in other countries, decentralization of competence and the introduction of semiautonomous work groups have been found to be easier if they are negotiated with a collective representative of the workforce, instead of unilaterally imposed; see the case of Fiat, where management resumed talking to the union workplace organization at the moment when it began to implement its "total quality" strategy. The Swedish paper in particular shows how strong representation combined with consultative arrangements may sustain a "cooperative culture" within which experimentation with decentralized organizational structures can flourish—structures whose introduction is often embraced by the unions as their own objective.

It is worth noting that the French paper reports, not just union weakness, employer resistance to representation, and an impasse in the development of workplace participation, but also a lag in the post-Fordist transformation of work organization. That there may be a more than accidental association between the two is hinted by the Spanish case, where in a largely outdated industrial structure, employers continue to resist the inclusion of works councils in the governance of the workplace and prefer to rely on their hierarchical powers, while works councils are preoccupied with union business pure and simple and have little confidence in employers. Nevertheless, the French chapter reports that councils have at least helped recast the balance between central and local regulation, especially of working time and technology, and have sometimes been a factor in the modernization of the human resource policies of French companies by impressing on them the need to invest in skills and general adaptability.

None of the West European papers discusses the extent to which works council influence may detract from economic performance by giving rise to joint rent seeking or politically prudent but economically self-destructive avoidance of tough decisions. On the other hand, examples abound in the papers and in the literature at large of firms seeking and receiving the support of a strong union or works council in implementing severe capacity cuts, working-time reductions, or productivity drives in response to a deep economic crisis. The case of the Swedish firm, Saab, is only one among many where representative consultation enabled managements to embark on fundamental change without losing control over it or destroying the allegiance to the firm of the remaining workforce.

As to rent seeking, all of the chapters focus on firms in the internationally highly competitive manufacturing sector. In such firms, difficult global market conditions serve as a powerful constraint on whatever deals management and labor may make with each other.²⁰ Quite possibly, the economically benevolent effects of strong representative institutions at the workplace may be conditional on competitive markets and a tough competition policy, as has been argued for the German case (Streeck 1989). Strong unions or works councils may have less desirable consequences in the public sector, where there is no or much less competition. But this is a separate subject not covered by this volume.

20. Note that Italian, German, and Swedish manufacturing are far more internationally exposed than manufacturing in the United States. In fact, rather than devices for rent seeking, the new representative-consultative arrangements that emerged in European economies in the 1970s and 1980s constitute a nonprotectionist response to intensified international competition, aimed at increasing the performance of national firms through improved cooperation between workers and management, allowing for continuous restructuring of production processes.

11.9 Summary

Postwar industrial relations in Western Europe set out with an institutionalized bifurcation between adversarial collective bargaining through unions at the sectoral or national level and cooperative consultation through works councils at the workplace. Works councils were based either in law or in national collective agreement. However, where they had no representational functions, which was the case almost everywhere outside West Germany and, to some extent, the Netherlands, they tended to fall in disuse during the 1950s and 1960s. Simultaneously, a representation gap opened in European workplaces that was related to the inability of both centralized unions and nonrepresentative councils to take up the growing discontent of workers with Taylorist rationalization.

The explosions of 1968 and 1969 made the development of accountable systems of workplace representation for workers a major concern for public policy as well as for unions and employers. Governments strengthened workplace representation either by legal support for union workplace organizations or by improving the rights of works councils and their links to the unions. In later years, it turned out that the resulting new representative arrangements at the workplace responded fortuitously to the requirements of post-Taylorist industrial restructuring, especially where they were from the beginning connected with still viable structures of cooperative consultation, such as German works councils. Where such structures had dwindled away, they were in subsequent years rebuilt either by well-established unions, as in Sweden and Italy, or by legislation. The outcome was a remarkable convergence of European industrial relations systems on a pattern of representative consultation—or participation—at the workplace, promoted by public policy, infused with union influence, and more or less willingly accepted by employers.

Western European systems of representative consultation are kept strictly apart from collective wage bargaining; otherwise, however, their operation is closely linked to unionism, and such links are encouraged by legislation. Legal intervention is used to take the main parameters of workplace participation out of contention between management and labor, as well as out of competition between individual firms. Major details, however, are left to joint regulation between employers and unions, at the national or at the workplace level. While the economic effects of workplace participation are hard to determine statistically, there are good reasons to believe that participation contributes in a variety of ways to efficient workplace governance and thereby to the dynamic efficiency of firms in uncertain economic, technological, and social conditions.

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III

The North American Experience

