Employee Representation in the New World of Work: The Dynamics of Rights, Voice, Performance and Power.

To understand the Employee (Provision of Information and Consultation) Act 2006 and what it could mean for Irish employees, one must first look to the origins of this legislation. The Act is derived from a European Community Directive which hoped to level the playing field within Europe regarding employee rights, create an instrument to allow employees a voice and ensure greater democracy in the workplace.

According to Doherty (2008: 3), “there is a view that increasingly what will differentiate European economies from low-cost competitors is the focus on “knowledge” and on exploiting the comparative advantage of better educated European workforces (human capital).” To be successful in this endeavour a balance must be found between the economic growth of businesses and the quality of life of employees through social policy. Allowing employees a voice to contribute in their workplace is a vital part of this undertaking. Sisson (2002:7) holds the view that “encouraging employee feedback and suggestions is the key to continuous improvement, while collective voice is important in building a climate of trust in which this can take place.” Without allowing employees an active role in their employment, reaching this goal is inconceivable.

Ireland has one of the highest levels of Foreign Direct Investment (FDI) in the world. One third of all Irish jobs are now sourced through FDI with 460 American companies in Ireland employing 100,000 people alone. FDI companies brought new Human Resource Management (HRM) practices to Ireland and during the transposition of the 2006 Act, both employers and the Government were concerned that nothing should “cut across the HRM practices of the Irish operations of US multinationals and thus damage FDI” (DETE :1998). Ireland has seen a stark transition from bargaining based employment relations systems to an individual rights based system, over the last twenty years. The Industrial Development Agency (IDA) no longer promotes employers to recognise Unions. Union density in the private sector is approximately 20 %.(Sheehan: 2005) The European Directive would have revolutionised Irish Industrial Relations, and was clearly a step in the direction of a modern bargaining based employment relations system.
The controversy surrounding the final terms of the Act was due to revelations that the American Chamber of Commerce furiously lobbied the government on behalf of Multinational Corporations. It is also claimed that the American Chamber of Commerce members threatened to restrict investment and move elsewhere if the directive was not opposed or amended (IRN: 42-18). The final terms of the legislation are a clear example of the influence that Multinational Corporations have in deciding Irish social policy.

Contents of the Act.

Consultation is defined as ‘Consultation with a view to reaching an agreement’ between the employer and employee representatives. Both parties must come to the forum in good faith with the intention of reaching an agreement. It bestows on employees in a non union multinational the legal right to elect representatives. The Act stipulates that employees must be consulted on matters which are likely to affect them. This includes changes in organisational structure and changes in contractual terms and the future economic development of the company.

The most controversial part of the Act is that it requires employees to trigger a mechanism which allows them to claim their right to information and consultation. Ireland and the UK differ from other European Countries, in this regard, as these are automatic rights in every other member state. The trigger mechanism requires a group of employees to sign a petition which must be submitted to either the employer or the Labour Court. The Irish congress of trade unions have been critical of this mechanism for triggering the rights contained within the act, stating ‘how can there be a plebiscite on a right?”

Research.

On the 12th June 2009 a group of employees in an American non union multinational, (based in Ireland), which is hostile to any for of collective action, triggered the mechanism and in doing so became the first group of non union employees to do so.
I have worked for this company as a production operator for the last 6 years. My masters thesis titled “Is it as easy as pulling the trigger?” discusses the difficulties that employees face in claiming their right to have a voice in their workplace.

My proposal for the upcoming conference on Employee Representation in the New World of Work, is a paper which will reveal the details of the continuing process of creating a voice for Irish employees under the terms set down in the Employee (Provision of Information and Consultation) Act 2006. The methodology used will consist mainly of participant observation of both the negotiations with my employer, the resultant agreement creating a voice for employees and analysis of the benefits of such a voice from the factory floor. This is currently a live issue in Irish Industrial Relations, and our endeavour to date has been documented in a recent article in the Industrial Relations News Journal which stated:

“It is clearly an important test case under the Act, which has been little used since being passed in 2006. If this group of workers do manage to secure a robust legally backed works council in a non-union multinational, it could constitute something of a milestone for employee voice in Ireland.” (IRN 37 – 14/10/2009)

(for full article, please see attachment)