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The Historical Evolution of Workers‘ Representation in Europe
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Employee Representation in the New World of Work: The Dynamics of rights, Voice, Performance and Power
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A. Methodological Consideration

- Our work implies diachronous and synchronous comparison:
  - when comparing different historical periods we compare **diachronously**.
  - as against that **synchronous** comparison compares, at a given time, different countries or groups of countries.

- A comparative legal history requires a combination of the two. This efforts starts with a long-term knowledge of the countries in question (=diachronously) and has to identify, analytically, moments, short periods or turning-points which contain criteria for cross-evaluation (sameness / difference) of periods (=synchronous approach).
Methodological Consideration

- This methodological consideration makes it necessary to present in „phases“ or „periods“. The criteria for shaping periods are always issue-specific. For „phasing“ labour law history the following criteria play an outstanding role:

- political turns and upheaval (e.g., wars, system changes)
- economic up or down turns (e.g., prosperity / recession; shifts within and between economic sectors)
- labour market changes (e.g., unemployment / full employment)
- social upheaval (e.g., strike movement, class struggle, the 1968 movement)
- paradigmatic changes in cultural patterns (e.g., changes in gender and generational relations, individualisation, ecological concerns, social responsibility of enterprises).
B. Underlying Assumption

- The emergence of Standard Employment Relationship (SER), under conditions of fordist centration, coincides with emergence of institutionalised workers’ representation.

- The crisis of SER coincides, in the decentred postfordist world of work, with a crisis of representation.
C. Structures of w. repr. in Europe

A. Employees Only
- „single channel systems“: trade union only (UK, DK, It, SWE, Irland)
- „dual channel systems“: trade union and non-trade union representation
  - Either with high t u prerogative (F, Esp, Port, B)
  - Or complementary division of power (D, A, NL, Gr)

B. Employees and Employers
- Bipartite system in Swe after 1938 Saltsjöbaden Agreement over a couple of decades
- joint bodies (F, B, D) besides the unitary statutory bodies with ancillary and/or specialised role
- “co-operation committees” (DK, UK), “joint committees” (I), “joint consultation committee” (UK), all on collective agreements basis.
Functions of w. repr. in Europe

- **A. Information and Consultation**
  - Since 2002 EU-wide (Dir. 2002/14/EC)

- **B. Duty to Sharing of Decision-Making**
  - „Mitbestimmung“ (D, A)
  - Less formalised equivalents (NL, Gr, F) and
  - - collectively negotiated – Sweden.

- **C. Plant level** (everywhere) – **Enterprise level** (partly).
D. The Main Periods

1. Reconstruction 1945-1950
   a. Trust-building workplace relations
   b. Corporatist Heritages: Pre-1945 Conditions

2. Economic growth and the welfare state: 1950-69
   a. The Golden Age
   b. Around May 1968


5. The European ‘Third Way’ since 1997
   a. Community Method
   b. Works councils: a success story?
   c. New Methods of European Governance: Progress or nightmare?
1 Reconstruction 1945-1950

- The (non-)existence of a „shared demand“ for reconstruction is paramount
  - a. Trust-building workplace relations
    E.g.: D – Iron & Steel industry (1951) – SWE: Saltsjöbaden Agreement (1938/46/66) – small countries (NL, B)
    Counter ex.: UK, F, I.
  - b. Corporatist Heritages: Pre-1945 Conditions
    Corporatist institutions and practices of the years before 1945 paradoxically help trust building: SWE, NL, D, A („Arbeitskammer“).
    Contrary: UK, F.
2 Economic growth and the welfare state: 1950-69

- Expansion of participatory rights go along with industrial peace and a high degree of autonomous economic self-regulation
  - a. The Golden Age
    *Mitbestimmung* (D)
    Non-involvement of the state (nord. countries) or countervailing power-principle (UK, F, I)
  - b. Around May 1968
    Workers participation as part of industrial democracy: DK 1965 – Norway 1966 – Swe 1966 (lateron statutorily) – UK: only an ID debate
    First international impulses (ILO, OECD, EEC).
3 Economic crisis: 1970-79

- Participation on shop floor level undergoes a paradigmatic change: from an instrument to promoting the economy to an obstacle (Eichengreen).
- However, paradoxically, increased social movements and progress in labour law (UK, P, Esp, Swe, NL, and the ex.s from phase 2, bottom)
- Bifurcation of workers representation between
  - Co-Management
  - and Counter power and class struggle.
4  Restructuring and deregulation: 1980-1996

- Deregulation (UK and elsewhere) – however limited and in diverse manner.
- Diversity starts to enter into the law of workers representation. A new diversity of types of representation (D) and a (corresponding? paradoxically connected?) new start of equality and equal opportunity-oriented claims (D, Spain, EEC).
In the field of workers representation the E(E)C brings about significant harmonising impulses

- **a. Community Method**
  Mass redundancies (Dir. 75/127/EEC) – take-over (Dir. 77/87/EEC) – Societas Europaea (Dir. 2002/14/EC).
  - Tensions with German Mitbestimmung

- **b. Works councils: a success story?**
  Stark changes in UK (Juridific.) and Sweden (employee-only representation)

- **c. New Methods of European Governance: Progress or nightmare?**
  Social Dialogue and Open Method of Coordination – Steps towards „informalisation“ of European affairs?
Again: Underlying Assumption

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E. Further Reading

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