

# Justice in the workplace: Why it is important and why a new public policy initiative is needed

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### Executive summary

The goal of improving fairness in the workplace has been central to UK public policy since 1997. For rather longer, companies have spoken of employee empowerment through such things as teamwork. Much has been done in both areas, but major concerns remain. In relation to fairness, employee rights give entitlements, but these rights also need to be meaningful and effective. In the workplace, the take-up of empowerment initiatives remains limited, and on some dimensions the extent of empowerment has in fact been falling. Initiatives in many areas, ranging from the National Minimum Wage to partnership deals, have the *potential* to improve workplace governance, which in turn contributes to productive efficiency. But this potential is often weak in practice, because of the absence of a structure of workplace governance that allows the positive effects to flow.

It is thus time to promote a new system of workplace justice. This is the combination of employment *rights* and effective *voice*, through consultation arrangements or through negotiation with trade unions or both, to realize those rights. Promoting justice is important in itself, in strengthening fairness and equity. It also means that the governance of work is strengthened and that the productive potential of models of good practice can be realized.

Four concrete linked proposals identify ways to strengthen workplace justice.

- 1. Pro-active advice.** Existing advice on employment relations can be made more pro-active. Instead of simply telling firms what they must do, advice should promote good practice. For example, firms making redundancies have for many years been required to consult employee representatives, 'with a view to reaching agreement'. But in the absence of positive advice and good practice models, they may not know how to give substance to this goal. Similarly, many firms receive state assistance in various forms. One simple approach would be to require state agencies that contact firms on employment issues to ask firms whether they have specified voice mechanisms and to indicate benefits of doing so. In addition, where firms seek grants for business development, it could be a condition that they take advice on employment relations.

- 2. Support for local initiatives.** Many sectors, in particular those where employment conditions are lowest, lack the means to develop good practice within their own contexts. There are examples of local initiatives which have had some success, but these exist only in some areas and are often poorly resourced. They should be developed and generalized. Actively promoting model local bodies would establish collective employer organization and act to identify and diffuse good practice. For example, employment rights are often ignored in parts of the independent restaurant sector, where small firms compete intensely and costs are cut to the bone. Imagine a local association which accredited its members in terms of the quality of their food and also their compliance with labour laws. This could establish a distinct market niche and protect them from under-cutting.
- 3. Sector forums.** Local initiative can be taken further through sector-level employment forums. The broad idea of such forums has attracted attention, but these require concrete action. The forums should not replicate previous efforts at economic development, still less act as surrogates for collective bargaining. They should focus on concrete issues, and develop models that are applicable to a particular context. Teamwork, for example, has many variants, and what works in one context does not translate to another. The forums should work on such things as teamwork and the nature and utilization of skills. They are most needed in sectors where collective employer organization is currently weak, and are not a universal need.
- 4. Good practice inside the firm.** Further encouragement is also needed to promote good practice at the level of the individual firm. Studies of partnership arrangements show that, in some circumstances, partnership promotes benefits in justice and efficiency. Experience in countries such as Germany also shows that works councils can act as independent interlocutors of management, thereby helping to improve the quality of decision-making. But these effects are far from automatic. In general, UK partnership deals lack recognition of the expertise and technical knowledge that unions and workers can bring. It takes time for individuals to identify shared interests and to begin to mobilize around them. Clearer provisions for rights to training,

backed by means of enforcement, would be a major step forward. There is also an argument for public support for such workplace training. This would allow employees to become effective participants in the management of workplace change.

The proposals are consistent with UK traditions of voluntary action underpinned by state encouragement. They also take them further, in promoting a network of institutions to connect employment relations actors together and to promote collective debate on shared issues.

### Introduction

There is growing recognition that, in contrast to past eras of high unemployment, it is no longer the quantity but rather the quality of jobs which is a major issue for the UK. As an ACAS (2004/5: 1-2) publication puts it, it is time for the issue of 'quality' in 'working life' to be put back on the public agenda. It is also becoming clear, albeit more slowly, that job quality is nowhere near as high as it might be, or as one might expect. An expectation of rising job quality would be consistent with public policy efforts since 1997 to improve employment rights and with longer-term trends at the level of individual organizations towards team work, direct communication with employees and even the 'empowered' or 'high commitment' workplace. This paper draws on research that explains the apparent paradox of limited or even falling job quality despite favourable conditions. But its main purpose is to suggest a way of improving the position.

The objective of the government is to create 'a modern labour market fit for the twenty-first century' so as to 'provide incentives for businesses to raise productivity and to follow best practice'.<sup>1</sup> The logic of this idea needs underlining. It is not only that employment rights contribute to equity and fairness. It is also that there is some kind of effect on firms so that they improve the efficiency of their operations. The idea of such a 'shock effect' has a long history.<sup>2</sup> Yet shocks are far from automatic. Reforms to law and practice have the potential to contribute to the stated objectives. They do not always do so. This is in part because laws have conflicting aims as well as unintended consequences.<sup>3</sup> More fundamentally, the potential is weakened because of two factors: the character of laws, which give individual rights without offering much to make these rights meaningful in practice; and a business context that is not open to positive shock effects and that tends towards minimal compliance.

The suggested way forward is two-fold. First, existing rights need to be made more effective. Second, managers, unions and workers need to be given ways to 'follow best practice'. This is not a matter of new legislation, but of taking the intent of existing legislation and making it work. Under the head of existing rights, practical suggestions are made in terms of advertising the rights. In relation to best practice, new voluntary mechanisms are suggested. This approach is consistent with current thinking in several key ways. The celebrated Warwick Agreement

of 2004 between the Labour Party and the trade unions made fairness at work a core theme and it expressed commitment to a strong agenda to promote skills.<sup>4</sup> Among its specific commitments is the development of sectoral forums in low-wage sectors. The present paper suggests a particular purpose of such forums. Its view of these forums differs from some, in not seeing them as to do with collective bargaining. Their main focus would be, first, to create 'social partners' where these are absent and, second, to promote sector-based models of good practice.

Much current thinking is thus based on the idea that employment rights are beneficial in themselves and that they contribute to better jobs and hence to productivity. This paper argues that the idea needs more weight if it is to achieve its aims. An appropriate set of measures will contribute to workplace *justice*, which is defined here as the combination of meaningful rights with voice arrangements that permit these rights to be exercised. Justice is of value in itself and also because it contributes to other desirable outcomes such as substantive returns to workers (e.g. better pay) and benefits to an organization as a whole.

The paper first establishes very briefly the nature of the problem. It then offers policy proposals. The remainder of the paper provides more detailed argument for the focus on justice (including the argument that justice and rights are contested, and that 'win-win' models are unrealistic), evidence of the extent of the problem and analysis of its deep roots.

# Job quality and limited success in dealing with it

This section outlines three issues. They are the evidence on the state of job quality, key points on legal intervention, and what previous commentators have said about addressing these matters.

### **Job quality**

There is now good evidence on such indices as stress, workload, discretion and job satisfaction. The picture on stress and workload is generally one of worsening trends during the 1990s with stabilisation but no improvement thereafter. The position on discretion and job satisfaction is in some ways even more disconcerting. Despite two decades of efforts to promote autonomy and discretion, through such devices as team work, and despite a widespread rhetoric of 'empowerment', the evidence points to declining amounts of discretion, which in turn fuel reduced satisfaction. A particular reason for the decline is a rise in performance management systems, which establish tight targets and reduce the scope for choice and initiative. One study identified four features of bad jobs (low pay, no sick pay, no pension scheme, absence of a career ladder); it found that between a quarter and a half of jobs were bad on at least one characteristic, and that only a quarter had no bad features.<sup>5</sup>

Evidence – notably that from the ESRC Future of Work Programme – clearly shows that the fastest growing occupations are in the low-skill parts of the service sector such as hairdressing. Where there has been growth higher up the class structure, it has been in established professions, many of them in the public sector, for example in education and health. The image of a high-skill knowledge-based economy driven by private sector initiative is at some distance from reality.

A second notable feature has been a polarization of jobs. There are relatively more 'bad' and 'good' jobs, as indexed by their pay, than there were in the past. Changes in skills have thus been very uneven.<sup>6</sup>

Workplace surveys report a considerable growth in work force skills and also the development of team work and other systems claimed to promote the quality of working life. Yet a key result from Workplace Employment Relations Survey (WERS) 1998 is that no overall effect of team work could be discerned on a range

of indicators of employee autonomy and commitment. WERS 2004 reports no change in the use of teams since 1998. It also notes that 'cross-training' (training to undertake a job other than one's own) was less widely practised (Kersley et al., 2005: 11).

Surveys of employees report declining overall levels of job autonomy and a rise in the use of control systems that monitor employee performance. Case studies of a range of occupations, including managerial and professional as well as manual and clerical jobs, paint a similar picture. Work seems to be increasingly disciplined and measured. The language of empowerment, though widespread, seems to have little purchase in reality. One study that asked managers directly about their use of this term found that it was not in fact part of their normal discourse.<sup>7</sup>

A further key fact concerns 'skills mismatch'. It is for example estimated that there are 6.4 million people qualified to the equivalent of NVQ level 3, but only 4 million jobs requiring this level of qualification.

### **Impact of law**

Legislation now gives employees rights to, among other things, a minimum wage, to limits on the hours of work, to choose trade union representation, and (since April 2005, if they work for organizations above a certain size) to be informed and consulted about matters affecting them. But these rights are of little use if they cannot be exercised. As Paul Smith and Gary Morton (2001: 135) put it, recent employment law is characterized by 'a minimalist regulation of the employment relationship'.

Evidence on several areas, detailed below, indicates that an approach in terms of basic compliance, rather than using the law to improve the performance of the firm, is widespread. To take one example, the requirement to consult employee representatives over redundancies has been in existence since 1975. It calls, moreover, not merely for information but for discussion 'with a view to reaching agreement'. Yet studies repeatedly find that consultation tends to focus on managing the consequences instead of on wider issues such as alternatives to job losses. This is despite the fact that there is no problem in principle, and

that consultation does not interfere with managerial decision-making. It is not, therefore, that firms resist something that harms the business. But the possibility of active and constructive employee engagement with re-structuring is not realized.

Justice arguments here include the value of engaging workers in key decisions affecting their jobs. But such discussion seems to be rare, with consultation occurring only after the key decisions have been made. Potential efficiency arguments include the planning of labour utilization, rather than relying on a short-term hire and fire approach. The ease with which jobs can be shed has become a feature of the British 'flexible labour market'. One reason why the possibility is not realized (in both senses of that word) is that the benefits of engaged discussion are not evident to managers or workers. As one study of consultation in practice found, some managements did engage worker representatives early in the process, and they reported benefits as a result. But most firms receive no guidance as to what these benefits may be. Nor are employees offered any concrete examples of what a right to be consulted means. If they have never thought about this question, they are likely to turn to the default option of focusing on, at most, the size of the redundancy pay-out.<sup>8</sup>

### **Existing proposals**

There is remarkably little by way of sustained public discussion as to how to improve this situation. It is true that several bodies have engaged in debates about work and corporate governance. The Royal Society of Arts published a report on *Redefining Work* in 1998 with a follow-up in 2003. The Work Foundation produced an *Agenda for Work* ahead of the 2005 general election.<sup>9</sup> But these remain somewhat isolated examples. And concrete means to create a positive agenda for work remain elusive.

Interesting suggestions can be found in three sets of ideas. First, David Coats (2005) develops a lengthy argument about voice and justice, whose analytical aspects are taken up below. In terms of public policy, he offers some interesting observations but less than a detailed agenda. The key points are:

- The new requirements on information and consultation should be embraced by all (but he says little about what the relevant regulations say or the prospects for such an embrace).
- Public support is needed to make workplace institutions work. And there is 'a major question whether the DTI ought to be offering business support products focused on equipping [SMEs in particular] with the wherewithal *not just to comply* with these obligations but also to reap the *benefits that flow from the pursuit of mutual gains*' (2005: 42, emphasis added). The idea that justice can promote mutual gains is a key one; the specific point about aiding businesses is taken up below.
- Employers also need an 'intelligent interlocutor' on the workers' side (ibid.) and there are benefits in the public funding of the relevant training. I have from time to time also used the word 'interlocutor' and will pick up on the argument below.

Second is the 'neo-Fabian analysis' of Deakin and Wilkinson (2004). Late nineteenth century Fabian reform entailed a comprehensive approach to the labour market and labour law, linking the regulation of work to the social security system. But a developed labour code was never pursued, and instead collective bargaining with minimal state involvement (the approach later identified as collective laissez faire) won out. In their view, the current situation of widespread labour flexibility and the institutionalization of low pay through the tax credits system has important parallels with that facing the early Fabians. The analogues to the methods of legal enactment and social insurance are, respectively, the pursuit of fundamental social rights and action by trade unions around such issues as pension fund activism and corporate social responsibility more generally. The key insight is that integrated labour regulation has never been pursued, and hence that there is a weak context in which justice and efficiency can be pursued. Yet specific proposals are not developed.

Third, the Citizens Advice Bureau has led the way in calling for a Fair Employment Commission (CAB, 2004). The idea here is that rights are in practice very hard to enforce and that giving individuals rights, which they may then 'choose' to pursue,

is a weak approach. It is pointed out that, in relation to the National Minimum Wage, the Inland Revenue has powers to make its own investigations; indeed, these provide the majority of enforcement cases. The CAB thus argues for an FEC with broad powers to:

- Investigate complaints over employer non-compliance with laws on issues including maternity leave and flexible working hours
- Conduct on-site investigations
- Assist non-compliant employers
- And enforce rights where necessary..

There is value in these ideas, notably the acceptance that non-compliance is not necessarily wilful and that the goal in many cases is to persuade employers to change practice rather than penalize them.<sup>10</sup> Yet the ideas are likely to make the contest over labour law even more zero-sum than it currently is, with the FEC being promoted as a weapon against bad employers while employers argue about costs, red tape, and interference with business decisions. There is also no reference to any specific mechanisms to make the shock potential of employment laws meaningful. Rights need to be placed in a broader context.

### The proposals: building workplace justice

We can think of three connected approaches. The first is led by the state, and relatively passively offers advice on and examples of good practice. Second, the state can more pro-actively encourage the take-up of good practice. This has two aspects: building on existing local initiatives and the development of networks at sectoral level. Finally comes action within the firm.

#### **Advice and models**

An obvious starting point concerns information and examples of good practice. Work has certainly been undertaken here. For example, the Business Link web site ([www.businesslink.gov.uk](http://www.businesslink.gov.uk)) provides clear advice on a wide range of employment matters. But, first, employers have to seek the advice. And, second, the advice specifies what needs to be done legally, without offering any indication as to why there might be efficiency benefits.

It is possible to go further. A key case is redundancy consultation. Employers are currently required to notify redundancies involving more than 20 workers. Why not prepare guides to be sent back? These could not only explain legal requirements but also suggest models for how various issues can be tackled in consultation with employees. Illustrations could be given of how job losses can be minimized through discussing alternative approaches with employees. Similarly, the concrete benefits of consultation around specific sets of issues might be explicitly stated. Leaving choice entirely free sounds suitably voluntarist, but, in the absence of ideas as to how to act, firms are likely to fall back on default mechanisms.

The next stage brings in David Coats's point, cited above, about state aid to equip firms, SMEs in particular, with the means to engage in meaningful consultation. It is not wholly clear how he envisages this happening. Would it be voluntary, and if so how could the aid reach the firms needing it most? How would we know when appropriate levels of knowledge had been attained? Yet the basic idea is important. One simple way to pursue it would be to require state agencies that contact firms on employment issues, notably the Inland Revenue, to ask firms whether they have specified voice mechanisms and to suggest benefits of doing so. In addition, where firms seek grants for business

development, of which there are many variants, it could be a condition that they take advice on employment relations.

Minimum wage enforcement is another example. We know that there are sectors little touched by the NMW. It would in principle be possible to police them aggressively. But it is not the case that all employers are deliberately flouting the law or that they always have much choice. And they are providing jobs that might not otherwise exist. It may be preferable to help some employers to understand how they might comply with the NMW and how this might bring benefits.

Consider a typical 'informal sector' firm.<sup>11</sup> It avoids paying the NMW by recording officially far fewer hours than are in fact worked. If it pays the NMW, it will have to think about when it in fact needs workers, rather than leaving them under-employed. It may then plan labour supply more carefully and may train workers to take responsibility at certain times of day.

Some of these ideas are free-standing. Others, however, depend on a wider context, for firms in highly competitive sectors may find it hard to break out of the cycle of low pay and low skills. This brings us to a second set of proposals.

### **Encouragement of local networks**

An emergent theme of past and present research concerns a gap between firms and official support agencies.<sup>12</sup> I am not yet in a position to say how big this gap is, still less to imply that official agencies are missing a trick. But one anecdote may suggest that there is an issue worth pursuing. In a discussion of business support agencies, the managing director of a small food firm argued that, from his perspective, what would be particularly useful would be advice, not from generalist public agencies, but from people who knew his sector and to whom he could turn informally. Others have argued similarly. There are agencies that provide very helpful advice such as the Manufacturing Advisory Service. But, first, they might be complemented by less official bodies. Second, they might themselves take employment issues, as well as production and sales ones, within their remit.

There are some very helpful industry-based bodies. But these tend to rely on local enthusiasm and to lack sustained funding. An idea that colleagues and I have floated is to take something of a risk by giving such bodies public funding and encouraging them, on such a secure footing, to develop networks of local support. In line with the above remarks, one might also require them to include employment relations issues within their activities as a condition of support.

A governmental approach, in short, can go well beyond exhortations to good practice. It can help to sustain local networks which can create the context for firms and employees to work out new forms of relationships. There are of course many difficulties here, including the absence of UK traditions of embedded networks, the costs, and issues of ensuring that public money was properly spent. But pilot schemes might be attempted where there are some industry bodies already in existence.<sup>13</sup>

To give an example of how this might work, a key area of the neglect of employment rights, on such issues as minimum wages and working time, is the independent restaurant sector, where small firms compete intensely and where easy entry leads to under-cutting of prices and hence wages. The employment of illegal workers is also well-known. Imagine, however, a local association which accredited its members in terms of the quality of their food and also their compliance with labour laws. This could establish a distinct market niche and protect them from under-cutting. Giving support to such associations is one way in which the state could encourage voluntary action.

### **Sector employment forums**

Efforts to generate change in employment relations often turn on commissions of inquiry or high-level committees such as the Bullock Committee on industrial democracy. As is well-known, this committee's recommendations were never implemented, even though it was charged, not with discussing whether industrial democracy was desirable, but with finding proposals to implement it. The reasons for this result have also been extensively rehearsed; they include opposition from management (including the absence of a unanimous report by the committee),

differences of view among trade unions, and a political context in which there was no clear majority favouring the committee's proposals together with major concern about other issues.

A different approach can be suggested. It would be less all-embracing. It would also reflect some of the key realities of contemporary employment relations. As Purcell in particular has argued, any core approach in the UK, based on voluntary collective bargaining, has fragmented into many different approaches (Purcell and Kessler, 2003). He also argues for a new approach by ACAS, which would build on that body's renowned reputation for independence and go further, to provide advice and guidance on work organization in ways that are quite distinct from those of other bodies (Purcell, 2000). In short, the need is for focused and specific developments that reflect their context, rather than all-embracing models. The long term goal would be to begin to build up the web of institutions that the UK is often said to lack by comparison with most other European countries.

As mentioned above, the Warwick Agreement floated the idea of sector forums, in particular in low-wage sectors. Exactly what they would do is not very clear, and I have heard comments that they might re-invent National Economic Development Committees or even act as a surrogate for industry-level collective bargaining.

To be useful, these bodies would need a more specific remit, to do with developing the use of skills and the application of industry good practice. That is, approaches to training or the design of pay systems need to be specific to the needs of a sector. Forums would also need to reflect existing practice, in building on current organizations and giving them some permanence and standing. There is also no need for forums across all sectors. The argument for focusing on sectors where collective employer organization is particularly weak is clear.

Keith Sisson (2005) has elaborated such ideas.<sup>14</sup> He suggests that the government act as a catalyst by setting up forums where disadvantaged workers are concentrated. The forums would provide information and disseminate good practice, with a view to raising productivity as well as employment standards.

It is debateable whether forums would in themselves affect concrete practice among firms that are not in the habit of working within such bodies. It is for this reason that prompting voluntary local efforts was stressed above. Yet sector forums have not been tried, and could well be a way forward. One approach would be to start them in sectors where there is a degree of employer collective organization, while in other cases a more local approach may be the place to start.

There are of course institutions such as the sector skills councils, but these tend to focus on the supply of skills and the links between employment and educational institutions. They are not intended to function as bodies of inquiry and, as is often remarked, they are largely driven by assumed and unquestioned 'employer needs'. The bodies proposed here would assess such issues as demand for skills and ways of developing practice around the deployment, as opposed to the acquisition, of technical competencies.

Issues that sector bodies might address include the following:

- Utilization of skills. What models of high performance exist within meaningfully similar groups of firms? Within this specific context, what for example is the appropriate way to link pay to performance?
- Teamwork. What constitutes a relevant model of teams in a specific sector? If a pattern of 'lean teams' seems to fit product market conditions, what are the down sides of this model and how can these be minimized? What conditions support the successful operation of teams, and what factors retard the generalization of team models?
- Employee representation. Are there examples where representatives have contributed to improved efficiency? How can representatives be supported in their role through training? How can the opportunities of engaged discussion between managements and representatives be developed?

### **Inside the firm**

I turn now to ways in which employee input can improve managerial processes. Take performance appraisal schemes. Introducing them on the basis of

consultation is likely to promote their legitimacy. There is a crucial role for representatives in the subsequent operation of the schemes, in holding managers to account for the promises that they make. If, for example, a scheme is intended to include discussion of training needs, representatives can check that this objective is not forgotten. We know from studies of German works councils that the councils are often valued by managers for their independent but not oppositional approach.<sup>15</sup> Employee involvement can make appraisal schemes not only better for workers in the sense of protecting their interests as against management, but also better in improving their functioning and removing weaknesses.

The conditions allowing representatives to do this are, however, not easy to put in place. The evidence on 'partnership' arrangements suggests that these often, but not always, entail engagement with agendas defined by management. It is very hard in the British context for employee representatives to be independent interlocutors of management, that is without being constrained to taking a junior role or alternatively falling back on adversarial bargaining. There are some non-UK examples such as German works councils where an appropriate role has developed, and there may be some in the UK on which one could build.

A key underpinning to developing independent interlocutors is the training of employee representatives. In addition to advising firms as to what they might do, there are obvious issues of training representatives, as again raised by David Coats. It is not the case that autonomous individuals will naturally know how to use their rights. It takes time for individuals to identify shared interests and to begin to mobilize around them. Clearer provisions for rights to training, backed by means of enforcement, would be a major step forward.

This is a potentially radical suggestion. One can imagine the protests from business lobbies over the costs and impact on decision-making. But if it is public policy that consultation take place it seems to follow that the means for effective consultation should also be provided. Moreover, and crucially, there is a key need here to change what managers would call mind sets. Consultation is currently defined in ways that minimize its productive potential, and these ideas need to be challenged.

### Workplace justice

The remainder of this paper elaborates on the theory and evidence underlying the above proposals. Academics (Budd, 2004; Deakin and Wilkinson, 2004) and policy-oriented commentators (Coats, 2005) have begun to develop a firmly grounded set of propositions about workplace justice. The present effort is a further attempt to develop the debate.<sup>16</sup>

Following Budd, we can say that employment relations systems need to balance efficiency, equity and voice. I say something about efficiency below, but the main focus is equity (fairness in the distribution of rewards and also in the administration of employment policies; Budd, 2004: 8) and voice (means for employees to have a meaningful say in decisions that affect them). 'Justice' is taken here as the combination of equity and voice.

As for efficiency, an important conceptual slippage should be underlined. The technical economics definition of efficiency is that some party can be made better off without another being made worse off (Pareto efficiency). This might come about if, for example, a new process reduces waste. But in everyday usage efficiency often means profitability or competitiveness. Being more profitable does not necessarily mean being more efficient in the technical sense; a standard example might be a reduction in wages. Such a reduction might even be deemed necessary in order to compete with other firms, and to the extent that workers gain from having jobs, albeit lower paying ones, this is not necessarily a matter of the employer gaining and the workers losing. But judging the benefits and costs is a political issue, and whether or not wages should be cut is not a decision that turns on the technical definition of efficiency. What constitutes efficiency is a contested issue.

For present purposes, workplace efficiency includes the ways in which employee skills and abilities are organized in the pursuit of productive goals. This would embrace team work, 'empowerment', and the like. I restrict attention to the employment relations aspects of productive efficiency, and say nothing about the many other influences on productivity and performance.

The problem is that efficiency and productivity have become the predominant focus. It is assumed that there is a simple thing called the high performance organization and that 'effective people management' contributes to its pursuit in a mechanical fashion. We have to think instead in more political terms.

- The outcome, performance, is not a single thing. Organizations produce many things, including wages together with how they are distributed and structures of jobs, which have bundles of characteristics including levels of skill and the distribution of jobs between men and women. These outcomes are contestable. The business language of 'the balanced scorecard' and the 'triple bottom line' (meeting economic, social and environmental goals) attempts to reflect this. But it does so through an impoverished view, wherein seeking a balance is a technical exercise rather than a political struggle.
- The processes underlying the outcome are also political. Workplace justice is a contested field, not something to be achieved through top-down human resource management systems.

My argument, then, is that attention to justice is crucial in its own terms, and that a new view of workplace justice can strengthen the debate on performance.

I should perhaps stress that I am trying to develop an argument in a difficult middle ground. On one side stand those who see a vision of skills and high performance as largely unproblematic: there are best practices that can be identified, and the only issue is to spread them as widely as possible. This approach reduces the politics of the workplace to the incidentals. I reject easy arguments about shared perspectives between capital and labour. On the other side are those who stress political engagement, in the workplace and outside it. They are rightly sceptical of technical solutions that minimize political differences and that skate lightly over lasting inequalities. They also stress that apparent partnership and co-operation can be very superficial.

Yet there are areas where interests between workers and employers are indeed shared.<sup>17</sup> Part of the problem in Britain is that industrial relations has tended to be conducted in adversarial terms, so that these areas have not been developed. It may be possible to do so, as long as sharing means negotiated agreement between autonomous parties, and not subservience to a single agenda. I am not, then, arguing that solutions are simply technical. But there are ways in which the contested terrain of the workplace can be re-organized so that the contest is conducted on different terms. I take this approach to be that pursued by Budd (2004).

An extensive and powerful essay by David Coats (2005) highlights many of the themes of the following paper. It establishes some core points which do not need repeating here, but there are also differences of emphasis, and of argument in one or two places, that help to define the present contribution.

Coats's particular focus is employee representation and means for employees to voice their views. He notes that much discussion has focused on what voice can provide in terms of efficiency. In the words of two American scholars, 'recommendations for employee involvement have moved from a limited circle of reformers to mainstream recommendations *for raising productivity*' (Handel and Levine, 2004: 1, emphasis added). Yet this is to take a narrow and instrumental view, and one moreover that takes a risk; if it is shown that voice does not in fact contribute to efficiency, then the argument for it is lost. Coats takes a different tack, locating employee voice in debates on human rights and citing the UN Declaration on Human Rights of 1948 and similar documents to argue that voice is important for itself. It is important partly to counter extreme and arbitrary management power but, more fundamentally, to give employees autonomy and self-expression.

We need to be clear about the meaning of voice. There has been widespread interest in direct participation through such things as team work and quality circles, and the language of 'empowerment' has become a commonplace. Some writers would include such schemes in measures of voice. For example, in analysing trends in voice using the Workplace Employment Relations Surveys,

Millward et al. (2000) include briefing and problem-solving groups in their measures. This does not seem to be Coats's intention, for he writes in terms of representation and industrial democracy and in places refers to 'collective voice institutions' (p. 37) which embrace works councils as well as trade unions. In my view, direct participation is certainly to be valued, but it does not offer truly independent voice, which needs collective expression and organization.

We might also clarify voice and equity. Coats sees voice as important for itself, which is also the view here. But we might also say that it is a means of expressing arguments about rights. It is not just an expression of dissatisfaction but can also be the means to articulate and mobilize around sets of rights, with their realization in practice being central to equity. We should also be clear about instrumental arguments. The dangers of valuing justice only to the extent that it promotes efficiency were mentioned above. But there is also the danger of worker-based instrumentalism, that is of valuing voice because it promotes results such as autonomy and satisfaction. It is true that such results often arise, but there is also an argument that voice is a means to engage in wider debates, in other words to shift the terrain on which autonomy and satisfaction are experienced.

Consider a worker employed in a dull and routine job. Suppose also that in the short-term there is nothing that can be done to relieve the tedium of work because, perhaps, competitive pressures are intense, or there is no clear way to improve work design without unacceptable cost. This worker's job satisfaction will be conditioned by these facts, and again for purposes of argument we might suppose that current voice arrangements have no effect on it. But in the longer term some combination of voice and equity may be able to re-define the goals of the firm, so that it competes in different markets and as a result changes its skills mix and in turn offers enhanced job interest and autonomy.

Coats cites a range of empirical evidence that employees would join a trade union if one were available and would welcome collective expression of their views on a range of workplace matters. There is thus some tacit demand for voice. He also argues that, in Europe outside the UK, there is evidence that non-union voice systems improve employee involvement. Moreover, innovative work practices

are most likely where individual employee involvement and collective voice exist. Efficiency arguments for voice can thus be offered.

The relation of the present effort to the work of Coats is as follows. First, some broadly complementary lines of argument are pursued. Second, some different empirical instances are offered. Third, some more specific public policy suggestions are made. Fourth, there are some differences of analytical emphasis which are touched on below.

## Limits to legally based solutions

Two legal issues illustrate the argument that formal rights need further encouragement to make them effective underpinnings to justice. The first is of a broadly collective kind while the third is an individual right.

**Information and consultation.** The justice and efficiency arguments of employee voice are widely rehearsed in general terms. In a remarkable show of agreement, the CBI and TUC stated in 2001 that 'optimal results are achieved where there is a mix of direct employee involvement and indirect participation . . . through a trade union or works council' (2001: para 31).<sup>18</sup> But what does concrete practice suggest?

Consider first European Works Councils, which were required in multinational companies of a given size and international spread by an EU Directive of 1994; the UK initially opted out of this provision, but was covered by it in 1997. EWCs entail European-level information and consultation arrangements. Reviewing evidence on the practice of EWCs, Hall and Marginson (2005: 213) show that the effects on managerial decision-making remain weak. Managers in firms with EWCs report that the councils are useful in promoting corporate communication, but their role in promoting organizational change or increasing productivity was much more limited. One study found that very few firms had accepted suggestions from their EWCs.

Turning to domestic legislation, Hall (2005) has scrutinized closely the new information and consultation regulations, together with the ways in which employers are responding to them. At first sight, the regulations offer useful new rights. The 'standard provisions' allow for the following arrangements:

Business developments	Information only
Employment trends	Information & consultation
Changes in work organization, including redundancy	Information & consultation 'with a view to reaching agreement'

But the standard provisions do not provide for several important ways in which the relevant rights might be exercised. They are silent on the establishment of a representative body through which rights might be exercised, and also on the

frequency of meetings and the facilities that representatives should be provided with.

Moreover, these provisions may well not be put into effect. Most obviously, there has to be a request from at least 10 per cent of the work force that I&C provisions be activated. And if a Pre-existing Agreement (PEA) – which is a written agreement, approved by employees, setting out how information is to be given and employee views sought – is in place, different requirements operate. There are voting thresholds that must be exceeded if negotiations on I&C are to be put in place. And a PEA may pre-empt statutory provisions by putting other arrangements in place. It may also be agreed at any time.

Hall concludes that the statutory provisions are much less of a default model than is the case with other requirements, notably those governing European Works Councils. He also remarks that the employer response seems to be one of risk assessment – that is, working out how likely it is that existing arrangements will be challenged – rather than pro-active compliance with the spirit of the legislation.

**Minimum wage.** The National Minimum Wage, introduced in 1999, has been a clear success. It has raised the pay of about 1 million workers, and has had a significant impact on the gender pay gap at the bottom of the earnings distribution. Negative effects in terms of reduced employment levels are generally found to be slight.

Yet there remain two areas of concern. First, a minimum wage can potentially improve efficiency by acting as a shock to management, inducing firms to improve their payments systems or to rationalize work organization more generally. There is some evidence of these effects. Thus surveys find reasonable numbers of firms saying that they introduced new equipment, for example. And case studies reveal the elimination of old piecework systems in some sectors. But these effects seem to be patchy, and to rely on the stimulus of factors other than the NMW. Firms moving up market have done so because of market opportunities, not because of the NMW itself. One story captures the picture. My former colleague Mark Gilman was interviewing firms about their responses, including any efficiency improvements. In one firm, the manager said that he had not thought about these, but now that they were brought to his attention he might do so.

The second concern is enforcement. The general evidence of widespread compliance is convincing. But there remain sectors, possibly accounting for about 1 per cent of jobs, where the NMW is ignored. They include the informal economy and employers of illegal immigrant workers, in sectors including catering and agriculture. The issue here is the absence of a sufficiently large and powerful inspectorate that can uncover underpayment and enforce compliance. It is notable that the Low Pay Commission in its 2005 Report has called for increased sanctions against firms that fail to pay arrears.<sup>19</sup>

In all three areas, then, there is a potential for justice and efficiency. But these positive effects have been patchy.

## Labour market and employer-led changes

I turn now to the context of firms within which public policy operates. There are widespread claims that the UK is moving towards a high-skill economy. The policy implication would then be that the supply of skills needs to be increased to match the demand. This vision is far from accurate.

As Anne Munro and Helen Rainbird (2004) have argued, drawing on the work of Wolfgang Streeck, skills are organizational and collective, as well as individual, goods. Individuals can gain through knowledge and autonomy. Organizations can benefit in terms of better performance. And skills are a collective good in that a pool of skilled labour is in the interests of all organizations.

Some possibilities are indicated in the following example of a manufacturing plant losing demand for its products and risking in turn the loss of valued skilled employees. The union convener

“had long wished to sign a ‘training agreement’, but during the plant’s good years it would have been impossible to allow workers with critical skills to leave their workplaces. . . . [T]he current crisis could be transformed into a new opportunity . . . Drawing on its high reputation and networks within the wider locality, the . . . plant could use its ‘training agreement’, formally signed in 1987, as a tool for reforming the broader functioning of the vocational training system. . . . The vocational schools soon began to send out consultants to individual firms to help them set up systematic customized training plans . . . In short, the . . . plant helped trigger a process through which the entire local labour market was radically upgraded” (Kristensen and Zeitlin, 2005: 74-5).

That sounds pretty good. But the plant was not of course in the UK but in Denmark. And one of the omitted passages in the above extract underlines that the Danish vocational education system was funded by the state to a significant degree, so that the convener could offer to management a cheap way of holding on to key skills. Note also that skill development is seen not just as an individual or even organizational but also a collective issue, embracing a whole locality.

In Britain, by contrast the poaching of labour remains a common complaint. There are isolated examples of cases where firms have worked together to generate

a pool of skilled labour that benefits them all, but these tend to occur in labour markets that are relatively insulated and in which it is possible to contain the poaching problem through a degree of collective action among employers.

At this point, some of the tensions with training need to be stressed. There is a tendency in some places to see training as an unproblematic good that is in the interests of all. As Munro and Rainbird put it, however, training is a 'contested' issue, and this contest reflects deeper tensions and contradictions within the employment relationship. Contest does not of course mean complete opposition, though plainly there will be instances where there is a straight fight, for example over how much time employees' training representatives should be allowed. It also means several other things, including:

*Agreement on ends, disagreement on means.* Here, there is an explicit shared goal, say that workers attain a new technical standard, but disagreement as to the best means to pursue it and how far there is compulsion.

*Lack of awareness of ends.* To the extent that managements do not think actively about new business ideas, and to the extent that they are accustomed to operating through command-and-control methods, they will lack the information to address new opportunities and will distrust alternative voices. An employee voice can in principle contest this world view, and in the process of contest improve business operations. In other words, it can save management from itself.

*Contest is not always about zero-sum disputes.* It is also about the definition of goals and how they can be achieved, as well as holding managements to account, that is, acting as an independent check that promised plans are delivered.

**High Performance Work Systems (HPWSs).** The HPWS is perhaps the currently favoured solution to issues of employee commitment and performance. Its nature is highly contested, but in essence it suggests a set of practices that promote the ability of employees to contribute to performance together with relevant opportunities and incentives. Abilities include skills and knowledge; opportunities embrace team work and problem-solving groups; and incentives include

performance-related pay. I comment here only on the relevance of this model to justice.

The first thing to note about HPWSs is that they are not generally presented in terms of justice. The quality of working life movement of the 1960s and 1970s, by contrast, started from the need to improve the quality of workers' lives; and it emerged from a context in which terms such as alienation were widespread and indeed in which discussion of Marx's conceptualisation of the term were common currency. Contemporary debates have lost this resonance. At best there is reference to satisfaction and commitment. Though the term empowerment is used, it means an ability to gain from an agenda set by management, not its original meaning of the political emancipation of the weak and oppressed.

The implications for justice are usually considered in terms of individual gains. In general, as we have seen, commitment does not increase. There is by contrast some evidence from WERS 1998 that the use of HPWSs is associated with high levels of pay, but it is notable that the study in question underlines the importance of job security as a key underpinning condition and also reports that a job security policy was present in only 7 per cent of workplaces (Forth and Millward, 2004: 116). This important result confirms several case-study-based analyses that also stress a degree of security as a central condition for HPWSs to function.

It is not, then, the case that HPWSs are necessarily bad for workers. On the contrary, studies find that under appropriate conditions they can increase autonomy and satisfaction. But these conditions are rare. A good example of a positive story is an aluminium smelter at Laterrière, Quebec. Here, an advanced form of team work was introduced embracing the elimination of much supervision and the use of self-governing teams. There were clear benefits to workers in terms of autonomy and improved levels of trust in management. But two key points stand out from this case. First, it was highly unusual in the extent to which the trade union was actively involved in designing, as opposed to simply responding to, the team system; and there were several other conditions that together underpinned the experiment. Second, team work did not mean a wholly shared view between managers and workers. On the contrary, workers maintained a very clear distinction between managerial functions and their own roles, together

with a robust sense of independence. The import of this case is that it shows how a sense of collective solidarity can co-exist with a HPWS, but also that such a situation is very unusual.<sup>20</sup>

As for efficiency effects, several studies certainly report positive results. Yet several key issues remain unresolved.

1. Measures of high performance practices vary between studies. It is not, therefore, clear what it is that is said to be leading to efficiency improvements. The influence may well be something unconnected with a high performance system in any exact sense. Some studies thus use very traditional indicators such as the existence of a grievance system. And many do not control for, or measure badly, other potential drivers of performance.
2. Many studies are cross sectional, so that the direction of causality is hard to demonstrate.
3. HPWSs have costs as well as benefits for firms. The costs are rarely addressed; yet a firm that gains in terms of productivity may also lose through higher labour costs or the expense of training in new techniques.
4. HPWSs are supposed to work through such mechanisms as worker commitment, yet evidence of the relevant causal links remains elusive and in some studies absent.

These considerations help to explain the apparent paradox that HPWSs 'work' but remain rare. They need underpinning conditions to be effective, and they also have costs which studies of productivity impacts may neglect. WERS 2004 confirmed that there had been only a 'marginal increase' (on its measures, to 16 per cent of workplaces) using a 'high commitment' approach (Kersley et al., 2005: 39).

At least two reviews conclude that the systems may simply be the contemporary manifestation of good management. Thus it is not the specifics of the systems that are important but simply attention to good practice. Yet we also have to stress that such good practice is hard to sustain in the light of pressures for immediate financial returns.<sup>21</sup>

## Constraints and possibilities

I now sketch some reasons for the British approach to managing the employment relationship. Though these are deep-seated, they are not unchangeable.

### ***Underlying issues in the British regulatory model***

There is in the UK a well-established pressure to meet short-term targets together with the absence of the governance institutions of countries like Germany. As Paul Thompson (2003) puts it, there are many reasons why employers cannot keep their promises to their workers. I want to highlight just three underlying issues.

**Management resistance.** A common argument is that managements resist new work practices because the practices threaten their own position. Giving workers control of their own jobs, for example, can remove the need for some layers of management. Yet this argument tends to find a new bogeyman to replace the equally mythical figure of the shop steward bent on destroying his employer. Studies suggest that middle managers welcome 'empowerment' initiatives in general terms. The problems that they find turn much more on the lack of time to deal with the many demands that are placed on them. Delaying tends to mean a widening of responsibilities and hence the absence of the resources necessary to give detailed attention to empowerment. Serious attention would entail consultation in advance and then finding the time and money for the necessary training. New initiatives take time, moreover, to show their benefits, and increasingly mobile managers may well be in new jobs before any benefits appear.<sup>22</sup>

**Existing assumptions about employment relations.** Mike Terry (2003: 493) has dissected British partnership deals in relation to what such key terms as consultation really mean. British managements and unions lack a tradition of giving life and meaning to the concept. Hence for example in much of Europe unions are seen as having expertise and technical competence in certain key areas, with German unions being well-resourced to deal with such issues as group working. Yet 'no British partnership agreement . . . indicates an awareness' of this issue. More generally, consultation has tended in the UK to mean a watered down version of negotiation, whereas in Europe it has a clearer meaning as a

form of shared discussion of a common problem with the expectation of serious engagement.

The phrase 'with a view to reaching agreement' seems to be largely empty since there are no structures or existing practices in which to embed it. It can mean something close to the European meaning of consultation, but it seems, as the evidence reviewed above suggests, generally to mean getting the workers to accept decisions already made, and not a process of more open problem-solving.

We may place this issue in deeper aspects of management approaches to employment relations. Richard Hyman's (2003) phrase 'unscientific management' captures the essence of the point. It was not that firms were unaware of the need to assert their right to manage or that they were slow to attack specific instances of threats to this right, be they from the shop floor or from governments (for example through incomes policies). But they lacked any coherent strategy to establish a structure of employment relations that would operate on some basis other than power and authority. Or in Keith Sisson's (1987) phrase, there was a failure to 'neutralize the workplace', that is to establish some system of rules and order. It is for example well-established that personnel management emerged as a profession much more slowly than was the case in America.

Bruce Kaufman (2004: 196) notes that American firms established specialized personnel departments after the First World War, which he explains in terms of the growth of firms and the need to professionalize labour relations, prosperity during the 1920s that helped to sustain welfare capitalism, and the opportunity to avoid unionization through 'effective industrial relations practices'. British firms, by contrast, were relatively small and more prone to tacitly tolerating, if not accepting, union organization.

**Deeper assumptions about firms and the role of regulation.** These approaches to employment relations have a strong affinity with British approaches to business regulation more generally. This is brought out strongly in a fascinating study of industrial policy in Britain, the US, and France taking the example of railways (Dobbin, 1994).

The 'political culture' of a country shaped not only reactions to common policy questions but also perceptions of what the issue was perceived as being. The original French approach was based on centralized state authority, and such issues as the planning and financing of railways was seen through this lens – to such a degree indeed that private companies' ownership was to revert to the state after 99 years, so that the establishment of a nationalized system in 1937 had been pre-figured from the earliest days of designing the system. In the US, the initial driving logic was that of local communities – which by the way gives the lie to the assumption that the US was simply a free market economy (a telling statistic being that, up to 1860, at least half of capital investment came from states and localities rather than capitalists).

In Britain, the emphasis was on individual sovereignty, which came to mean protection of individual firms. Whereas US industrial policy stressed markets and saw any similarity of prices as evidence of collusion, in Britain small firms were protected and cartel arrangements accepted as natural. Regulation took the form of informing the public of such issues as safety, and it was assumed that this knowledge would mean that firms would then act in the public interest. Maintaining the autonomy of the firm meant that rationalization was limited and that public policy options were seen in terms of the needs of firms rather than the functioning of markets. As Dobbin stresses, an inspectorate model was developed in relation to railways which was then applied elsewhere. It was based on the idea of assessing firms' behaviour and then leaving any action to private legal cases rather than the direct use of sanctions.<sup>23</sup>

The idea of giving the citizen rights, but then leaving it to private action in order to enforce these rights, was thus deeply embedded in the political culture. The concept of the invisible hand cast a very long shadow and was in many respects a distinctively British phenomenon.

### ***Space for action***

Yet historical legacies are not wholly constraining. Different paths can be chosen. I will first summarize why the above results produce issues for social actors, and then look at the room for choice.

**Whose problem, whose solution?** Firms may conclude that there is no major issue facing them, or, if there is, that it is not workplace justice. Part of the common managerial argument is that many rights have already been introduced and that further rights are likely to interfere with, rather than promote, efficiency. In the context of global competition, moreover, it is flexibility that remains the watchword. The other side of this argument is that teamwork and the like have been widely implemented where appropriate: it is not the case that firms generally oppose involvement on principle.

Yet the evidence reviewed above gives pause for concern. First, the clear promise of the HPWS model has not been realized. Despite its promises of increased efficiency, it remains rare. And, even where it exists, its promises are not always delivered, for these rest on conditions, including job security and meaningful employee engagement, which are far from common. Second, despite over a decade of innovation with empowerment schemes and the like, the evidence suggests falling, not rising, levels of employee satisfaction and commitment. Third, the implications of globalisation can be read in a way other than 'more flexibility'. It is obvious that the UK cannot compete with low-wage countries on wage costs. It also seems that flexibility requires active employee engagement, which requires a re-thinking of the means to secure such engagement. Fourth, firms have been able to rely for many years on competitive labour markets and on securing worker performance through performance management systems and formal targets. This approach may be reaching the end of its value, as the negative aspects of performance targets become more salient. As Francis Green puts it, 'intensification of effort is hardly viable as a long-term strategy for sustainable growth' (2003: 145).

A fifth issue concerns corporate governance. Within employer circles, there have been widely debated efforts to reform systems of governance. From outside, there has been growing pressure on multinational companies around issues of human rights and the environment. Notions such as Corporate Social Responsibility have become common currency. It is true that firms have often been able to take the sting out of a potentially radical challenge by signing up to voluntary codes of practice. But it is also the case that they have had to change their practice and that responsibilities on such issues as child labour and the environment are now much

more fully recognized than they were only recently. There remain areas of doubt and uncertainty, and it is possible that some firms will accept the need to take governance issues further.

This idea is becoming increasingly common. One radical review of CSR concludes as follows:

“the potential unintended consequence is that the idea that corporations have responsibilities that go beyond the duty to satisfy shareholders sets deeper into public consciousness and paves the road to novel and innovative popular demands (Shamir, 2004: 686).

The argument here is that those outside the current CSR arena can generate pressure on it. But, in addition, it may be that those within the arena also recognize benefits of being pro-active. It has become a commonplace that managements are not monolithic. There may thus be space for some managers to devise their own agendas that challenge prevailing assumptions.<sup>24</sup>

Governments, too, may need to re-think their assumptions about employment relations. We have seen that minimalism runs very deep. But it is not fixed. Consider the approach of the Conservative governments from 1979 to 1997. It is now well-established that they did not arrive in office with a pre-defined programme and that certain policies, such as privatization, emerged over time. In the employment relations field, one example is the approach to minimum wage legislation. It is said that the early Conservative administrations were driven by the traditional concern of doing what the employers wanted; and companies affected by the Wages Council system did not necessarily want the abolition of the councils, which provided a structure for wage-setting on which they had come to rely. Hence the councils were not abolished until 1993. One could similarly argue that a government concerned with the long-term development of the UK economy might go beyond minimalism.

Trade unions are the actors who are the most likely to benefit from an agenda in terms of justice. They would see themselves as the means to make formal rights into effective sources of power and influence. Yet the issues facing unions are

many, and debate as to how to respond remains heated. The issues are the evident ones of declining membership and influence. The debate has turned on how to respond, with 'partnership' and 'organizing' approaches often being counterposed. Partnership approaches offer the promise of constructive engagement with managerial agendas, and they may be the 'least bad' option in current conditions. For Oxenbridge and Brown (2004: 389), the activity is 'an essentially cooperative or positive-sum relationship' that also has to be seen in the context of wider power relationships: contemporary partnership often takes place on a terrain where labour's power is limited, but it is none the less potentially preferable to the alternative of even further exclusion from influence. The limitation is that unions are very much junior partners and that their ability to challenge management from an independent position is lost. The alternative, organizing, model thus stresses independent action around the many sources of discontent that can be identified in contemporary workplaces. For Danford (2005: 183), partnership unionism may become a 'hollow shell'. His own studies on manufacturing suggest an alternative based on 'critical engagement' which is possible when 'local union activists exploit the new spaces created by management's partnership agendas'.

These contrasting positions may both be correct and applicable in different circumstances. Oxenbridge and Brown focus on cases where managements have displayed a commitment to partnership. This commitment is likely to have been underpinned by product market conditions that allowed a reasonably long-term view to emerge and by labour market conditions encouraging working relationships with unions rather than a hire-and-fire approach. Danford deals with a part of manufacturing with long-established union traditions, which may have given unions the resources to sustain their critical engagement. There may well be many other circumstances, notably parts of the service sector and among small firms, where any form of collectivism is rare and where even partnership is not feasible.

Whatever the particular merits of the partnership v. organizing models, it is reasonable to argue that unions can gain from engagement with a debate on future models of workplace representation. So could at least some employers, for the reasons given above.

**Reasons for space for choice.** A central issue is the functioning of markets. It is still the case that some economists think that markets are naturally efficient and that removing 'barriers' is the sole requirement. But research of the kind reviewed shows that firms do not naturally adopt efficient solutions and that what is deemed to be efficient is highly context-dependent. There is now a large body of theory and analysis that challenges conventional market discourses, but it needs to cut more deeply into political debate.<sup>25</sup>

Discourses shape but do not determine choices and outcomes. There was at one time a popular argument, to the effect that any reform that seemed to run counter to the wishes of the ruling class was in fact in long-term interests of the class: the state in capitalist society was constrained to operate in the interests of the capitalist system. The work of Dobbin and many other scholars suggests a much more satisfactory approach which, moreover, does not end up in the equally unsatisfactory position of saying that outcomes are no more than the working out of particular contingencies and balances of forces. In place of both of these extremes, it is possible to identify reasons why actions are not pre-determined but are still shaped by past legacies and assumptions.

This analysis may in turn be located in theories of power. The work of Steven Lukes (1974) exercised great influence. The relevant theories have advanced. Lukes tended, as he now admits (Lukes, 2005), to see power in zero sum terms, that is in terms of one powerful actor getting the relatively powerless to act in ways different from those that they would freely choose. He also stressed the direct power relations between individual actors, as opposed to the cultures, ideologies and meaning systems that set the context for specific exercises of power. Several studies have moved beyond this approach, to analyse relations between individuals and contexts and to provide a deeper understanding of the nature of power in employment relations.<sup>26</sup>

Looking at more concrete levels, these ideas have informed studies in areas such as the effects of team work or the meaning of partnership agreements. At one time, there was a tendency to talk in essentialist terms about the inherent effects of such innovations. Empirical analysis has now moved on, to suggest conditions

under which teams, say, may have different kinds of effect. This development, it seems to me, reflects not just recognition of empirical complexity but also an analytical approach in which different influences can be brought together. Moreover, as we have seen above, the limited effects of various efforts to promote justice reflect, not (always) direct opposition from organized interest groups, but a lack of language and a reliance on taken-for-granted assumptions. Analyses informed by Lukes's work can help us grasp the embeddedness of power.

One of the key implications of theoretical development concerns the space for choice and action. Theory now recognizes that structural constraints are not total and that in any employment relations system there are competing logics. Think of call centres. These are no longer seen as new electronic sweatshops. Analysis shows that firms necessarily operate with different demands, for example to satisfy customers while reaching targets in terms of numbers of calls completed. Workers have a degree of power in the system, because they can use the edict of customer satisfaction to break away from scripted conversations. And the more that call centres stress the delivery of complex products, the more they are driven away from Taylorized systems.<sup>27</sup>

### Concluding remarks

I have argued that workplace justice is widely favoured in principle, that some post-1997 reforms have contributed to it, but that mechanisms to support it have been weak. This is not a matter of a lack of will or 'poor implementation'. It reflects long-established assumptions in the UK about how the employment relations system and the labour market work. On the system, the assumption is that the parties engage each other at arm's length, if at all. On the market, it is assumed that changes in the supply of skills or the introduction of minimum employment standards will lead to changes in behaviour. The evidence from a range of issues, including skills reforms, consultation requirements, and the National Minimum Wage, is that the relevant shocks are not automatic. There is thus the need and the opportunity to go further.

A linked set of developments was thus suggested. These have four aspects: proactive advice and good practice models; support for local networks; sector-level dialogue; and the promotion of interlocutors within the workplace. Taken together, these ideas represent a significant change from current assumptions. As discussed in the final section of the paper, the predominant UK approach is to assume that labour market actors will themselves find optimal solutions or that, in the event of market failure, specific formal rights will solve the problem. This approach does not recognize the importance of building institutions that can turn potential into reality. The proposals are radical because they call for a change in ways of thinking: from minimal compliance with regulations to constructive social dialogue.

But are they enough? Consider the issue of skills. Reflecting on the problems of moving towards a model of high skills, Ewart Keep (2000) has offered some relatively radical proposals. These include a measure of income redistribution, to reduce the attractiveness of the production of low-value goods using low-skill labour. Keep also highlights the importance of 'patient capital' on the German model, so that firms are encouraged to invest in skills in the long-term. Yet even these proposals have been criticized by his colleagues, Caroline Lloyd and Jonathan Payne (2004: 215, 221). They question whether the proposals would be sufficient to move Britain from a low-skill path and argue that a key additional factor entails 'major reforms to the industrial relations system'. The UK needs trade unions that have real voice and influence. But the authors go even further. Radical

modernization needs to be seen as what they term a class project, which is an approach 'that aims to shift the balance of power between capital and labour, both at the level of state policy and the workplace'.

I do not wish here to debate the meaning of a class project, but some summary assertions will explain the link with the present argument.

- The danger is a stark polarization between 'workers' and 'capital', as tended to happen with earlier debates on industrial democracy and workers' control of industry. At the extreme, writing in terms of a class project can restrict debate to a small and select group of like-minded people.
- This is not the intention of Lloyd and Payne, who pursue, here and elsewhere, constructive engagement with public policy on skills.<sup>28</sup> They share with the present analysis the key view that change in employment relations is a political process in which different sets of interests have to be recognized.
- There are two ideas around class projects that can be conflated. The first is that a strong employee voice is necessary to contribute effectively to debates on justice and productivity. This is an important and valid line of argument. The second is that one class (here, workers) can pursue its own project without reference to other classes. This is what tended to happen during the 1980s and 1990s, when it was managers and the government who thought that there was a simple market-led approach that did not need engagement with employees.
- It is the case that a series of substantial connected changes would be needed to shift the operation of the British employment relations system, and also that an embedded tradition of collective employee organization is central. This is what Budd (2004: 184) also calls a wholesale rather than piecemeal set of reforms, embracing unionism of an 'employee empowerment' kind.

In short, wholesale reforms are needed as part of a long-term agenda. But an all-or-nothing approach is not helpful. The changes suggested here may be small-scale and reformist, but they begin to challenge existing assumptions. Parts of them, notably around the identification and training of workplace interlocutors

and also allowing local initiatives to flourish, are far more radical than they seem at first sight.

There are grounds for thinking that the above suggestions are not mere castles in the air. The quality of work and the governance of employment seem to be coming into renewed focus. It is well-known that there are fashions or cycles in approaches to these questions, and it may be that there is a current swing towards issues of justice. Or if there is not, there should be. This paper has made some modest proposals on a way forward. One aspect of them needs underlining. They are not solutions to technical questions but some ideas as to how debates on the contested terrain of work may be pursued. Each of the three aspects of efficiency, equity and voice is itself contested, and there is further contest between them. This does not mean that constructive approaches are impossible. But it does mean that debate has to recognize the existence of differing views. This is what constructive dialogue is all about.

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### Notes

<sup>1</sup> The then Secretary of State for trade and industry, Patricia Hewitt, introducing the Employment Act 2002 in the House of Commons. Cited in B. Hepple and G. S. Morris, 'The Employment Act 2002 and the Crisis of Individual Employment Rights', *Industrial Law Journal*, 31 (2002), p. 246. As a piece of argument, this paper keeps further referencing to a minimum. The notes give sources and further commentary.

<sup>2</sup> Its first systematic statement was in the US in 1960 with reference to the effect of trade unions: union presence could shock managers into using more professional employment practices such as formal discipline and grievance procedures. See S. H. Slichter, J. J. Healy and E. R. Livernash, *The Impact of Collective Bargaining on Management* (Washington, DC: Brookings, 1960). Later evidence suggested that unions could have productivity-enhancing effects, though their extent and nature depended on the context in which unions operated: R. B. Freeman and J. L. Medoff, *What Do Unions Do?* (New York: Basic, 1984). Debate as to exactly what conditions promote shock effects has not been pursued subsequently with sufficient clarity.

<sup>3</sup> There is an established line of argument that individual employment rights are limited by restrictions on their coverage and efforts to promote 'flexibility' and individualization in the labour market. See Hepple and Morris, *op. cit.*, and A. Pollert, 'The Unorganised Worker: the Decline in Collectivism and New Hurdles to Individual Employment Rights', *Industrial Law Journal*, 34 (2005). The present focus, though sharing much of this view, is on placing it in the context of labour market behaviour more generally.

<sup>4</sup> Available in many places including [www.unionstogether.ork.uk/articles/employment](http://www.unionstogether.ork.uk/articles/employment).

<sup>5</sup> Key studies are P. McGovern, D. Smeaton and S. Hill, 'Bad Jobs in Britain', *Work and Occupations*, 31 (2004); and F. Green, "'It's Been a Hard Days' Night'", *British Journal of Industrial Relations*, 39 (2001), and 'The Demands of Work', in R. Dickens, P. Gregg and J. Wadsworth, eds, *The Labour Market under New Labour* (Basingstoke: Palgrave, 2003).

<sup>6</sup> P. Nolan and S. Wood, 'Mapping the Future of Work', *British Journal of Industrial Relations*, 41 (2003); M. Goos and A. Manning, 'McJobs and MacJobs: The Growing Polarisation of Jobs in the UK' in R. Dickens, P. Gregg and J. Wadsworth (eds), *The Labour Market Under New Labour* (Basingstoke: Palgrave Macmillan, 2003).

<sup>7</sup> E.g. A. Felstead, D. Gallie, and F. Green, 'Job Complexity and Task Discretion', in C. Warhurst et al., *The Skills that Matter* (Basingstoke: Palgrave, 2004); B. Harley, 'Team Membership and the Experience of Work in Britain', *Work, Employment and Society*, 15 (2001); Green, 'It's Been a Hard Day's Night', *op. cit.*; C. Hales, 'Management and Empowerment Programmes', *Work, Employment and Society*, 14 (2000) P. Edwards and M. Collinson, 'Empowerment and Managerial Labor Strategies', *Work and Occupations*, 29 (2002). A study of first-line managers finds that traditional supervisory duties remain much in evidence and that devolution of responsibilities to teams remains rare: C. Hales, 'Rooted in Supervision, Branching into Management', *Journal of Management Studies*, 42 (2005).

<sup>8</sup> A key analysis is P. Turnbull and V. Wass, 'Job Insecurity and Labour Market Lemons', *Journal of Management Studies*, 34 (1997). The study just mentioned is J. Smith, P. Edwards and M. Hall, 'Redundancy Consultation', DTI Employment Relations Research Series 3 (1999), available at [www.dti.gov.uk/er/emar](http://www.dti.gov.uk/er/emar).

<sup>9</sup> The reports are accessible from the organizations' web sites, respectively [rsa.org.uk](http://rsa.org.uk) and [theworkfoundation.com](http://theworkfoundation.com).

<sup>10</sup> Similar arguments were made before the CAB's proposals. See P. Edwards, M. Gilman, M. Ram and J. Arrowsmith, 'Public Policy, the Performance of Firms and the "Missing Middle"', *Policy Studies*, 23 (2002).

<sup>11</sup> For evidence on this, see, M. Ram, P. Edwards and T. Jones, *Informal Employment, Small Firms, and the National Minimum Wage*, Report to Low Pay Commission, September 2004

<sup>12</sup> Edwards et al., note 10 above.

<sup>13</sup> For more on these issues, including comparisons of local networks across Europe, see C. Crouch et al., *Local Production Systems in Europe* (Oxford, OUP, 2001).

<sup>14</sup> This paper was written while he was at the ACAS Strategy Unit. Its relation to the present proposals is that it appeared wholly independently but has reached similar conclusions from different particular starting points. There is of course a more fundamental shared starting point, namely, views on the management of the employment relationship that Keith developed when he was Director of the Industrial Relations Research Unit and that have deeply shaped my own thinking.

<sup>15</sup> E.g. K. S. Wever, *Negotiating Competitiveness* (Boston: Harvard Business School Press, 1995).

<sup>16</sup> Many of the wider issues are discussed in P. Edwards, 'The Puzzles of Work', in A. F. Heath, J. Ermisch and D. Gallie, eds, *Understanding Social Change* (Oxford: OUP, 2005) and in P. Edwards and J. Wajcman, *The Politics of Working Life* (Oxford: OUP, 2005).

<sup>17</sup> For an extended theoretical statement of this view, see P. Edwards, J. Bélanger and M. Wright, 'The Bases of Compromise in the Workplace', *British Journal of Industrial Relations*, 44 (March 2006). Many other scholars also argue that class co-operation can, under certain conditions, bring benefits to capital and to labour: E. O. Wright, 'Working-class Power, Capitalist-class Interests, and Class Compromise', *American Journal of Sociology*, 105 (2000). This is the basis of the analytical differences with Coats, who espouses an explicitly pluralist view and goes back to the famous works of Alan Fox in the 1960s, which defined such a view. He says nothing of 'radical' critiques, or indeed of Fox's auto-critique of pluralism. A radical view explains the bases of conflict and co-operation more successfully than does pluralism. It is also more likely to warn against the dangers of technical solutions to political issues. Its policy implications will vary. Marxian radicalism stresses continuing struggle and is doubtful of any kind of reformism. The non-marxian 'materialism' espoused here, and perhaps also pursued by Fox, is more willing to argue that reforms can have real benefits for workers.

<sup>18</sup> They are drawing here on the results of a survey in ten European countries, the Employee Direct Participation in Organisational Change (EPOC) study. For further discussion see P. Edwards, J. Geary and K. Sisson, 'New Forms of Work Organization in the Workplace', in G. Murray et al., eds, *Work and Employment Relations in the High-performance Workplace* (London: Continuum, 2002).

<sup>19</sup> Low Pay Commission, *National Minimum Wage* (Cm 6475, 2005). This report and its predecessors provide a wealth of information on the impact of the NMW. The academic studies cited include J. Arrowsmith, M. Gilman, M. Ram and P. Edwards, 'The Impact of the National Minimum Wage in Small Firms', *British Journal of Industrial Relations*, 41 (2003).

<sup>20</sup> J. Bélanger, P. Edwards and M. Wright, 'Commitment at Work and Independence from Management', *Work and Occupations*, 30 (2003).

<sup>21</sup> J. Godard, 'A Critical Assessment of the High-performance Paradigm', *British Journal of Industrial Relations*, 42 (2004); P. Edwards and M. Wright, 'High Involvement Work Systems and Performance Outcomes' *International Journal of Human Resource Management*, 12 (2001).

<sup>22</sup> E.g. L. Worrall, F. Campbell, and C. Cooper, 'The New Reality for UK Managers', *Work, Employment and Society*, 14 (2000); M. Fenton-O'Creevy, 'Employee Involvement and the Middle Manager', *Human Resource Management Journal*, 11 (2001).

<sup>23</sup> See also P. Hall, 'The State and Economic Decline', in B. Elbaum and W. Lazonick, *The Decline of the British Economy* (Clarendon: Oxford, 1986).

<sup>24</sup> A similar argument has interestingly been made in relation to environmental issues. Firms initially opposed the idea of global warming, but some leading companies broke ranks to emphasize 'sustainability' and their green credentials: D. Levy and D. Egan, 'A Neo-Gramscian Approach to Corporate Political Strategy', *Journal of Management Studies*, 40 (2003). There is thus contest within the ranks of capital. Whether corporate environmentalism is a clear benefit, or is a reflection of a self-interested agenda, remains itself a hotly contested issue.

<sup>25</sup> See for example N. Fligstein, *The Architecture of Markets* (Princeton: Princeton University Press, 2001); D. MacKenzie and Y. Millo, 'Constructing a Market, Performing Theory', *American Journal of Sociology*, 109 (2003); J. McMillan, *Reinventing the Bazaar* (New York: Norton, 2002). These issues are pursued in Edwards and Wajcman, op. cit., chapter 9.

<sup>26</sup> F. Wilson and P. Thompson, 'Sexual Harassment as an Exercise of Power', *Gender, Work and Organization*, 8 (2001).

<sup>27</sup> See especially M. Korczynski, *Human Resource Management in Service Work* (Basingstoke: Palgrave, 2002); also N. Kinnie, J. Purcell, and S. Hutchinson, 'Managing the Employment Relationship in Telephone Call Centres', in K. Purcell (ed), *Changing Boundaries in Employment* (Bristol: Bristol Academic, 2000).

<sup>28</sup> For example, C. Lloyd and J. Payne, 'Just Another Bandwagon?' and "'Idle Fancy" or "Concrete Will"?', SKOPE Working Papers 49 and 47 (2004). At [www.skope.ox.ac.uk](http://www.skope.ox.ac.uk).

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