

Flexibility and Empowerment

Abstract

The process of globalization produces intensification of competition and presents a challenge to the legitimacy of legal protection of workers. One management response to the intensification of competition has been the strategy of flexible specialization. These new relations of production undermine the conditions necessary for effective collective bargaining. The options of enhanced legal protection for collective bargaining and individual workers' rights clash with the economic forces driving flexible specialization and the philosophy of private responsibility. An alternative strategy for building routes towards effective worker representation uses legal intervention to adapt and nudge the patterns of flexible specialization towards the empowerment of workers. Opportunities for enhanced negotiation over the alienating qualities of work are presented by flexible specialization. It is suggested that Works Councils contain the potential for such an adaptive institutional arrangement for worker representation.

The Challenge of Globalization to Labour Law

There is nothing new in the process of globalization. The interdependence of geographically remote economies has merely become increasingly acute in the twentieth century. As the process of globalization gathers pace, however, it places greater stress on the viability of domestic labour law systems of national economies.

The most obvious impact of globalization is the intensification of world-wide competition. This provokes instability in large scale enterprises, which in turn creates job insecurity. Businesses respond to the competitive pressures by seeking new production methods which promise both greater efficiency and improved flexibility in order to respond to market opportunities. We will consider below the implications of these revised production methods for industrial relations systems and legal regulation.

At a deeper level, the process of globalization challenges the legitimacy of legal regulation of labour markets and industrial relations. Businesses insist upon the freedom to operate in the market without the costly restraints of local regulation, and threaten to exit a particular economy unless their demands are met. This provokes a direct conflict between the apparent demands of economic success and the claims of workers to regulatory protection. The argument is no longer about the appropriate

level of protection for workers, but rather whether any protection from a domestic labour law system is justifiable at all.

This conflict about the desirability of national labour law systems finds its expression in an ideological debate about the scope of public and private spheres. A labour law system constitutes a public regulation of aspects of the economic system, which presupposes that the employment relation represents an appropriate sphere of state action. The rival ideology insists that the employment relation is essentially a private relation, a market contract, the content of which should be left to the parties to determine. From this latter perspective, not only is legal regulation inefficient and harmful to economic prosperity, but it is also an illegitimate exercise of state power.

One type of response to these challenges to domestic labour law systems tackles the ideology head on. It insists that legal protection for workers is neither harmful to economic prosperity nor an illegitimate exercise of state power. On the contrary, it is observed, the intensification of competitive pressures renders legal protection against exploitation even more essential for a society which aspires to have its citizens treated with equal concern and respect. The recipe for regulation becomes a reassertion of the collective rights of trade unions and the legal protection of individuals. Another type of response concedes the argument about the harmful effects of legal regulation to national prosperity, but seeks to address these through a strategy of global regulation that would subject all businesses, wherever located, to the same regulatory restraints. An international charter of the fundamental rights of workers would provide the cornerstone of this strategy. These two responses have many attractions, though they represent highly ambitious programmes. The former requires a direct confrontation with the economic forces unleashed by globalization, and the latter demands unprecedented levels of international co-operation.

Here I explore another type of response to the challenge presented by globalization which is more modest in its ambitions. The approach involves a closer inspection of the new production techniques which have been adopted in the face of international competitive pressures. This inspection reveals, I suggest, some new opportunities for organizations of workers to exert effective influence over the way in which their employer conducts the business. These opportunities can be taken up with the assistance of careful legal regulation designed to provide helpful models for suitable institutions. This approach is informed by the insights of 'systems theory', which emphasises the complexity of effective legal regulation and suggests the strategy of 'structural coupling' for achieving implementation of regulatory objectives.¹

The Challenge to Collective Bargaining

Mass Production

The advent of the mass production firm presented a unique opportunity for organizations of workers to flourish. The mass production firm gathered the workers together

¹ Teubner, 1993, 1988.

in one plant, which facilitated communication within the group. The conveyor-belt production method increased the bargaining leverage of small groups, for they could halt production of the whole firm by industrial action. The concentration of capital into a single firm produced the paradox that although it strengthened capital, it simultaneously provided a single target for collective action, which permitted a concentration of effort on the side of workers' organizations. In part as a response to leapfrogging demands for wage increases by different groups of workers, these large employers developed internal labour markets, in which each job was graded and allocated a level of remuneration according to a conception of merit.

Within the mass production firm, the advanced division of labour at each stop on the production line, combined with the repetition of tasks at those stops, made it possible to view the internal composition of the firm as a hierarchical set of job packages distinct from the persons holding the jobs.² The firm could be governed by a set of rules which determined the content of the job package and the level of remuneration associated with that package or grade of job. Worker representation became directed to the negotiation of those rules and the defence of established rules. Collective bargaining could be described as a system of joint regulation, that is the formulation and enforcement of the rules agreed between union and management. As a result of union pressure, this system of rules developed specific features, such as rigid demarcation of tasks, and seniority systems for promotion to highly remunerated job grades. The presence of the comprehensive code also rendered it possible, particularly in the US, to refer all disputes between management and workers to a neutral third party such as an arbitrator, since the dispute whether it concerned a conflict of interests or rights could be determined in principle by an interpretation of the code.

Flexible Specialization

Piore and Sabel use the term flexible specialization to describe two phenomena which challenge the dominance of the large mass production firm. The first comprises the introduction of flexibility within the firm. The second comprises flexibility outside the firm by vertical disintegration, and then the suppliers, perhaps in an industrial district, compete for business with the assembler or core firm. The objective of both these developments consists of a combination of innovation and customization. Innovation is required in order to respond to rapidly changing developments in the available technologies, which then give products a competitive edge. Customization is also necessary as the consumer market demands greater variety and higher quality in the available goods. The old mass production firm proves too rigid to handle these pressures without substantial reorganization. Flexible specialization requires from firms the capacity to reconfigure production constantly and to embrace continual innovation in products.

Flexibility within the firm involves the devolution of decisions to lower levels, such as divisions, departments, and work groups. These groups are then given responsibility for product development, innovation, and improvements in quality.

² Piore and Sabel, 1984, 113.

The production process is organized so that it can respond quickly to alterations in consumer taste. This approach requires much greater flexibility from the workforce in the assignment and definition of tasks. Job packages cannot be closely circumscribed, but must contain considerable flexibility. Jobs may require a much broader range of skills. A strict system of seniority in promotion cannot be tolerated, as it does not necessarily select those workers who possess or are capable of learning the requisite range of skills. The whole system of internal labour markets comes under threat.³

Flexibility outside the firm involves subcontracting to suppliers of components within the framework of a long-term requirements contract. The supplier becomes responsible for innovation and product development in partnership with the assembler or core business. The type of flexibility obtained by vertical disintegration is that production can be increased or decreased by varying the order for components, without the core business having to address the problems of the fixed costs of plant or the costs of altering the size of the workforce. A further flexibility derives from extracting workers from the internal labour market of the core firm, for this may present opportunities for the subcontractor to avoid union rates of pay and to take advantage of wage differences due to labour market segmentation. This form of flexibility therefore seeks both to take advantage of the supplier's expertise to improve the quality of the product, but also to shift the costs of investment and management of the labour force onto another business, the subcontractor.

Considerable scepticism has been voiced as to whether UK industry has been introducing such radical changes into its operations.⁴ It is conceded that some increase in internal flexibility from the workforce has been demanded, but that this is really only a minor adjustment, a species of 'neo-Fordism',⁵ which tends to emphasise intensification of work effort rather than improving skills and enlarging responsibilities,⁶ and certainly not a new paradigm of industrial production to replace mass production. Similarly, whilst it is conceded that in some sectors especially in public services there has been an increase in vertical disintegration, the general picture has remained more or less constant with widespread use of subcontracting having always been a feature of mass production industries. Even conceding these points, however, the threat to the settled practices of collective bargaining persists, for any steps in the direction of flexible specialization undermine the conditions under which collective bargaining flourishes as the dominant form of worker representation.

The Demise of Collective Bargaining?

The new flexibility in working practices undermines the pattern of a fixed system of job packages and the system of rules which regulated their content and distribution. The firm must reward flexibility and provide incentives for innovation. This can be achieved by a combination of offering job security, so that the worker does

³ Cappelli, 1995.

⁴ Wood, 1989.

⁵ Aglietta, 1979.

⁶ Pollert, 1991, 1, 19-21; Kelly, 1985, 39.

not fear losing a job by suggesting an innovation, but also by paying wages related to productivity, profits, and other measures of individual contributions to the prosperity of the business. This method challenges the collective determination of job packages, and suggests instead an individualized merit system for rewards. It remains possible to have collective agreements, but the terms defining the job package must be confined to general statements about the need to 'vary to meet business and operational needs', the number of grades will be drastically reduced, and the general statement in the agreement about flexibility insists that all employees can be required to perform any work within their capability. The agreement may contain a quid pro quo containing guarantees of employment and earnings,⁷ or perhaps promises to improve the 'employability' of workers, so that in the event of lay-offs then their training equips them with transferable skills suitable for employment elsewhere.

The vertical disintegration of the large firm into a core business with numerous subcontracted tasks has several consequences. The separation of capital units creates the need for multiple sites for worker representation. Geographical dispersal becomes more likely, which impedes communication. The bargaining leverage of groups of workers diminishes, for the core firm can switch production to another subcontractor. By subcontracting work, the core employer removes groups of workers from the sphere of application of the internal labour market, which presents the subcontractor with the opportunity to pay lower wages and to resist comparisons with the core staff. The core firm gains the benefit of numerical flexibility by externalizing the costs of downturns in production requirements. Vertical disintegration also exacerbates the capital boundary problem, which is that the organization holding the capital is not necessarily the employer of the employees affected by its decision. For example, the core firm reaches a decision to switch production from one plant to another, but since these plants are separate corporate entities, either wholly owned subsidiaries or independent suppliers, the employer in the plant forced to make redundancies has no choice but to comply with the decision and the workers can have no say in what happens without some legal intervention which steps over the formal boundaries between units of capital.

The flexible firm therefore undermines the conditions for worker organizations that had pertained under the mass production vertically integrated large firms which predominated for most of the twentieth century. Add to these difficulties for organizing the workforce, the problem that the workers' attitudes and concerns may have changed due to their experience in the new relations of production. The traditional agenda of collective bargaining, such as wage rates for grades and job security, may be of less interest to skilled workers, who can obtain equal or better remuneration for their skills elsewhere, and whose concerns may be directed to issues where traditionally unions have had little impact, such as unnecessary hierarchies at work, their participation in crucial production decisions, and how to keep pace with technological change and advance their careers.⁸

⁷ Dunn and Wright, 1994, 36-37.

⁸ Kern and Sabel, 1992, 217, p. 229.

This thesis predicts the collapse of worker organizations as the flexible firm is introduced, with the most significant decline in subcontractors, but with a ripple effect outwards and back towards the core firm. Since the core firm is now less vulnerable to economic pressure it can afford to resist demands for representation.. Even if unions manage to obtain the necessary support, they will encounter considerable managerial resistance to the reduction of the governance of the workplace to a set of rules defining wage-work packages, for the essence of flexible specialization is to avoid specificity in the delimitation of tasks and to introduce payment systems which reward individual or group achievement.

New Opportunities Presented by Flexibility

We have observed that one response to the challenge to collective bargaining presented by flexible specialization could simply amount to added legal protection of the institutions and processes of collective bargaining. Here I consider an alternative approach which consists of an inspection of the process of flexible specialization in order to identify opportunities for new forms of worker representation. The question is whether or not employers might encourage or at least tolerate alternative types of worker representation within the new relations of production? The objective of this enquiry is not to rule out collective bargaining as the dominant form of worker representation, but rather to consider, in view of the stresses to which collective bargaining may be subjected to in the immediate future, what other avenues may be available to workers to achieve effective representation in the workplace.

A central feature of flexible specialization within the firm is the requirement for greater communication and co-operation between groups of workers. This presents the opportunity of providing a site for discussion of many aspects of workplace relations. In the mass production industries, the task of technical co-ordination by management was conflated with hierarchy and authority, so that the technical elite also claimed the right to govern the enterprise through doctrines of management rights and managerial prerogative. These authority structures were the antithesis of empowerment of production workers, for they symbolized the removal of responsibility and power to control work. Once technical co-ordination becomes a task of production workers themselves, we may anticipate a flattening of hierarchies, and a destruction of the material basis for authority structures.⁹ This creates the opportunity for dialogue which is less undermined by the relations of subordination. The emphasis upon quality in production has led to the development of integrated small units of production in order to form quality circles. The model of industrial districts, in which small firms both compete and co-operate, as in the example of computer and software firms, requires a dismantling of the traditional boundaries of firms in order to permit the co-operation which lies at the root of successful innovation. Again this suggests a possible route towards empowerment through the dialogues necessitated by co-operation. The successful relation between core business and subcontractor requires

⁹ Unger, 1987, 507.

a relation of trust and co-operation in business, so that there will be give and take.¹⁰ This provides the opportunity for workers to discuss how best this relation of co-operation between businesses can be improved

The employer's requirement that jobs should include a high degree of flexibility opens up the possibility for the workforce to discuss not only the implementation of tasks but also their definition. Unlike the preordained jobs of the conveyor belt, the flexible job has to be given content and is subject to continuous change. This provides workers with the opportunity to negotiate the content and allocation of tasks. The focus of the negotiation would be on the meaning of work, that is the dimensions of responsibility and job satisfaction. Where work is organised through quality circles, the group can bargain on such issues since management is seeking to make the group responsible for the quality of the finished product.

Both workers and management have an interest in continuing training and education in order to achieve the multi-skilling and adaptive capability to master new technologies, and so the organization and payment for suitable programmes of instruction can be the focus for discussion.¹¹

The smaller size of firms makes it possible for worker stakeholders, that is employees with equity investments in the firm, to have a say through the corporate governance mechanisms, such as the board of directors, in the direction in which the business is progressing. As the stakes represent a greater proportion of a small company, the voting power of the employees increases, and their position enables them to influence the business plans of the firm. An alternative arrangement for the ownership of capital is the worker-owned co-operative, though this may be an unsatisfactory form for larger firms.¹²

These possibilities for effective negotiation between management and representatives of workers clearly set a different agenda from the traditional scope of collective bargaining. Instead of wages and hours being at the top of the agenda, the focus of discussion is on the organisation of work, the relationships at work, and the policies of the firm in competing for markets and training the workforce. This contrast provokes a fundamental question about the purpose of worker representation. How should we understand the objectives of workers in demanding a voice at work?

Exploitation, Disrespect and Alienation

What motivates employees to form organizations for the purpose of representing their interests to employers? The inception of such organizations in a particular workplace probably comes as a response to a particular issue, a grievance, a wage demand, a fear of dismissal, a resentment about intolerable working conditions. In the longer term, it is possible, I suggest, to discern three fundamental motives behind

¹⁰ Campbell and Harris, 1993.

¹¹ Kern and Sabel, 1992, o.c., 238, give German examples.

¹² Estrin, 1989.

the formation of stable organizations for representation, which can be summarized by the terms exploitation, disrespect, and alienation.

The first addresses issues of exploitation, that is a belief that the employer is offering an unfair wage-work package. The objection is to the poor level of remuneration for the time, effort, and skill required to perform the job. Here the objective of collective organization is to increase bargaining power in the labour market by restricting the supply of labour through the threat of industrial action. The organizational framework for workers with this objective can either be based upon a particular group with a skill required by the employer such as a craft-based union, or the representative organization can mirror the size of the employer's organization and seek on an enterprise or plant level to use the threat of industrial action to improve the level of wages for all employees. In either case, the form of organization best attuned to these objectives is an independent trade union which demands improvements in the wage-work package through collective bargaining.

The second motive for organization addresses the desire of workers to be treated with dignity and respect. The objection is to autocratic and arbitrary governance of the workplace by management. The objective of collective organization is to insist that employers follow clear and fair procedures prior to making decisions about such matters as the reorganization of work or disciplinary actions against individual workers. The organization of workers will seek mechanisms for consultation and procedural rules which restrict managerial discretion. The form of workers' organization which appears best attuned to these objectives is one based upon the plant or enterprise, which will seek the introduction of consultation procedures, grievance procedures, and disciplinary procedures, and legal rights to guarantee these arrangements. This can be described as a form of 'joint regulation' of the workplace. Collective bargaining has often been presented as fulfilling this objective. It is described as a scheme of industrial democracy, as a mechanism for ensuring that the voice of the workers will be heard in the enterprise, and ultimately as a technique for sharing the power to regulate the workplace between the owners of capital and workers as the suppliers of labour power.

The third motive for organization addresses the problem of alienation at work, that is the search to construct jobs which can contribute to the meaning of workers' lives. The desire of workers in this third strand is that work should provide scope for self-realisation.¹³ This Marxist ideal suggests that what humans require is hard work which presents a series of intellectual and practical challenges, and where success improves self-esteem. The drudgery of the production line normally lacks these qualities and most people perhaps expect work to be nothing more than an instrumental task to obtain unrelated welfare benefits in the form of the purchases from wages. Industrial psychologists identify the ingredients of job satisfaction in terms which reflect this theory of alienation: opportunity to use one's valued skills and abilities; opportunity for new learning; creativity; variety; difficulty; amount of work; responsibility; non-arbitrary pressure for performance; control over work methods and work pace (autonomy); job enrichment (which involves increasing responsibility and control); and complex-

¹³ Elster, 1989, 127-158.

ity.¹⁴ The kind of institution which could address these issues must be one which discusses the nature of work, the composition of jobs, the methods of production, innovation in production techniques, and the organization of production. This suggests that it should be local to the production unit rather than plant-wide or company-wide, and that it should comprise a meeting between employees and managers rather than outside union negotiators. In some respects the shop steward system of UK industry shared some of these features, though it was mostly geared towards the collective bargaining negotiations over the wage-work package and procedural agreements.

By distinguishing these three motives for organizations of workers, there is an implicit suggestion that the form of organization which is appropriate to each objective may differ. The objectives of the workers are not necessarily incompatible, but they can be addressed more cogently by different institutions. Effective market bargaining requires, for instance, a comprehensive restriction on the labour supply which may only be achieved by a craft union, whereas the introduction of fair grievance procedures may be best achieved by an organization based upon the plant, perhaps guaranteed by legal rights.

The new opportunities for worker participation and representation which we have discerned in the relations of production described as flexible specialization share the feature that they open up the possibilities for meaningful negotiation about issues connected to the problem of alienation. Management requires a new kind of co-operation from the workforce in determining how the work is to be completed. The nature of the co-operation shifts from obedience to orders towards a joint determination about how best to develop, manufacture, and deliver the product to customers. In order to achieve this kind of co-operation, management will have to address concerns about the alienating quality of work.

Structural Coupling

What kind of legal regulation of the enterprise could nurture these potential strands of worker representation in the new context of the flexible firm? The objective of legal regulation is to permit a productive synthesis between two perspectives. On the one side is management, which is primarily motivated by economic objectives, but which recognises the need for co-operation and trust with the workforce in order to maximize the joint product of the firm. On the other side is the workforce, which has immediate economic goals that may conflict with those of management, but which also seeks control over work. The first task of legal regulation is to identify opportunities to assist in bring together the employers need for co-operative relations with the workforce and the workforce's aspirations towards self-determination. The second task of legal regulation is to identify opportunities for facilitating the development of workplace institutions which can produce structural coupling of the two perspectives. By structural coupling is meant an institution which can simultaneously respond to the concerns and interests of both perspectives.

¹⁴ Locke, 1976, 1307-9.

A safety at work committee may be a good example of a successful instance of structural coupling provoked by legal regulation. Employees have a natural and immediate interest in securing safe conditions of work. Moreover, they will often lack the expertise to know what the appropriate safety measures might be, as in the case when they are working with unfamiliar chemicals. At the same time, the employer has an interest in avoiding injuries at work, since these are likely to involve expensive legal claims or high insurance premiums. In addition, injuries at work may interfere with production, causing delays and additional costs. The employer has difficulty in monitoring the workforce at all times, however, in order to ensure that safety precautions are followed, so must rely on a combination of education and self-discipline by the workforce. Under these conditions, both employer and employees have a mutual interest in dialogue to share information and to establish workable procedures for implementing safety standards. There is an opportunity here for successful structural coupling in the form of safety committees in each workplace.

Collective consultation over redundancies is perhaps an example of an unsuccessful attempt at structural coupling in the United Kingdom. Under European law, all Member States are required to establish arrangements by which employers consult representatives of the workforce when the employer is contemplating redundancies with a view to reaching agreement. Under the UK implementing legislation,¹⁵ where an employer proposes 20 or more redundancies over a 90 day period, then the employer must consult either any recognised trade union or representatives employees elected by the workforce. The regulations do not specify how the employee representatives are to be chosen in the absence of a recognised union. The difficulty confronting this form of consultation is primarily that the representatives of the employees will naturally be reluctant to agree to any redundancies, being prepared at best to negotiate levels of severance payments. The employer will also be reluctant to disclose the business position and plans of the firm, which it will regard as confidential and sensitive information. The prospects for this form of consultation therefore appear bleak. We do not have the convergence of interests necessary for successful structural coupling.

We can now formulate the question at the heart of this exploration of the problem of worker representation in the context of the pressures from the process of globalization towards flexible specialization. What kinds of institutions could best seize on the opportunities for effective worker representation in the relations of production of flexible specialization? Are there institutional arrangements which could achieve structural coupling in the sense of providing the forum for worthwhile negotiation between management and workers' representatives? The trick is to create institutions which can channel the discussions of workers and employers towards mutual understanding and accommodation of goals.

A modified version of collective bargaining cannot be ruled out as a possibility for successful structural coupling. But the modifications would prove substantial, for they would include alterations in the subject matter of negotiation and the loca-

¹⁵ Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 (SI 1995 No. 2587).

tions for negotiation. At bottom the difficulty is that the traditional objective of collective bargaining to fix wages and job content runs directly contrary to the management objective of performance related pay and flexible working systems. An alternative approach is to build alongside traditional patterns of collective bargaining institutions which have the potential to tap into the new opportunities for worker representation presented by the relations of production contained in flexible specialization. Such an institution would be located in the space where the interests of management overlapped with the aspirations of workers for control over the workplace.

Works Councils

One possible institution which might facilitate the development of new types of worker representation is the Works Council. This institution exists already in many European countries, and following the introduction of the European Works Council Directive, there are no proposals to extend this institution to all large enterprises.¹⁶ Works Councils have been viewed critically as an empty gesture in the direction of worker representation, or an invasion of management's right to govern with workplace. Another way of analysing Works Councils is, however, to consider them as a flexible exploration for the possibility of structural coupling in the new context of flexible specialization. By establishing Works Councils with a mission to create a dialogue between management and union, we establish an institution which can discuss what agenda it will find helpful. Whilst management may not wish to bargain directly about wages, it will want to use the opportunity to create a dialogue designed to facilitate the operations involved in flexible specialization. The institution of a Works Council implicitly recognises the position of employees as stakeholders in the organization, and provides the forum where management can offer meaningful consultation in the expectation that this will build trust, co-operation and commitment from the workforce.

A comparison with German practice is instructive. The Works Council has the role of negotiating technological innovation and flexible deployment. The representatives, often skilled workers, have welcomed innovation as a competitive measure, but have sought to negotiate about the management of transition and improvements in training and skill levels.¹⁷ The Works Council is not tied to particular craft interests, but can focus on such matters as job enrichment by for example insisting upon the inclusion of maintenance and programming of machines within the normal tasks of manual workers. The Works Council has provided the forum for consultation about the processes of flexible specialization, and this industrial relations background has undoubtedly helped to establish this new form of the relations of production.¹⁸

¹⁶ Communication for the Commission on Worker Information and Consultation COM (95) 547.

¹⁷ Lane, 1989, 177.

¹⁸ Streek, 1987, 281; Keller, 1995, 317.

The particularly interesting feature of the European Works Council Directive from the perspective of structural coupling was the way in which businesses were permitted to shape their own Works Councils provided that they acted before the deadline of September 1996, an opportunity UK multinationals quickly took up.¹⁹ This method has the advantage of permitting flexibility in the shaping of the institution so that it accommodates a business' internal structure, but it runs the danger that management will confine the agenda of consultation. It might be better to provide an indicative list of the topics which should be on the agenda for consultation before awarding an exemption from a legally imposed model. These topics could include the organization of work, training and continuing education, and technological innovation. Yet I would not wish the institutional framework to be rigid: the participants will no doubt find that different kinds of participation are more appropriate to handle diverse issues. The role of the Works Council would be merely the general framework within which groups and committees designed to enhance employee involvement could flourish.²⁰

The prospect of national Works Councils, of course, poses a distinct threat to the tradition of the 'single channel' of representation through collective bargaining which predominates in the UK. This threat is certainly exaggerated, for there is no reason why union representatives in the plant should not participate and dominate the Works Council, as happens in Germany. Moreover, my suggestion is that the fear exhibited by unions is largely misplaced. The Works Council can be focused upon those issues connected with disrespect and alienation at work which have traditionally fallen outside the compass of collective bargaining. It is true, however, that the co-operation of a Works Council with a management strategy embracing flexible specialization will undercut a union's attempt to fix wage rates for particular job packages, but that raises the further question of whether the union will be able to prevent the individualization of wages through collective bargaining? If the union is unable to resist such a change, then the crucial issue for workers is how they can best be equipped to flourish in this altered environment through the acquisition of new skills relevant to the firm's needs, which can only be answered by local dialogue between management and representatives of the workforce.

Does this amount to empowerment? The Works Council promises the opportunity to discuss all aspects of work, and in that sense tends to be broader than collective bargaining. It can address those aspects of work which turn it into drudgery rather than an opportunity to confront challenges. In its conception, it is an institution which can address the problem of alienation. My suggestion is that the Works Council offers the institutional potential to address the problem of alienation which for too long has remained at the margins of the practices of worker representation in the United Kingdom.

¹⁹ Wedderburn, 1995-6, 366, 379.

²⁰ Bailey, 1995, 557, 561.

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