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Works Councils and Joint Consultative Committees: are they a threat to Trade Unions?

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Abstract.

This article examines the relationship between the incidence of consultative bodies (Works Councils and Joint Consultative Committees) and trade unions in different business systems. The results will interest management, union practitioners and policy makers internationally and, by extension, all those concerned with social dialogue. The survey revealed that both Works Councils and JCCs are associated with a union presence, irrespective of business system. Therefore, both hypotheses are rejected. There is no evidence here that either have been used by employers as a substitute for unions, in any business system. Thus, the prevalent view that WCs/JCCs operate to undermine unions is less plausible than the view advanced by a minority of researchers that the two sets of institutions are associated with each other. The association of unions and works councils demonstrates a significant commonality between larger organisations operating in very different business systems. A large component of the varieties of capitalism literature tends to obscure this phenomenon.

Introduction

This article examines the relationship between the incidence of consultative bodies (Works Councils and Joint Consultative Committees) and trade unions in different business systems. The results will interest management, union practitioners and policy makers internationally and, by extension, all those concerned with social dialogue.

There has been considerable international interest in employee consultative bodies and their relations with trade unions in recent years (see; Gollan and Patmore, 2003). Interest derives from a combination of union weakness and legislative innovation (Rigby et al., 2004). This has led to discussion of how far the 'representation gap' can be bridged by alternative forms of employee representation (Brewster et al. 2004). Consultative bodies fall into two broad types, both considered here. They may be Joint Consultative Committees (JCCs) with little or no legal support, as in Britain, or Works Councils (WCs) embedded in a wider system through both detailed laws and established practice, as in Germany. German Works Councils are bodies for collective worker participation at plant and organizational levels, with specific informational, consultative and codetermination rights (Müller-Jentsch, 1995). Internationally, laws and norms support workplace consultative bodies to varying degrees in different systems. In favourable institutional settings such as the German context, they have been seen as generating positive effects for enterprises: enhancing worker voice, increasing trust and co-operation, improving information flows within organizations, diffusing best practices and encouraging industrial upgrading (Weiss and Schmidt, 2000). This 'economic efficiency' argument may account, in the context of increasing global competition and the search for competitive advantage, for much of the recent interest in JCCs/WCs. Yet, as earlier scholarship stressed, they may also have participatory and democratic functions, enriching working life in ways that transcend production considerations (Martens, 1999).

Context and Hypotheses

The relationship between WCs/JCCs and trade unions is problematic because their functions and concerns differ and overlap. It has been argued that in an individualised society, all forms of collective representation - whether union based or not - are likely to be eroded in favour of more direct, managerially centred, forms of participation (Martens, 2003). If this is indeed the case it suggests that a shrinking market for such services might intensify competition between different representational forms.

This article assesses whether the operations of JCCs and WCs are in practice mutually antagonistic or supportive, and whether consultative bodies have differential impacts on unionisation in different types of economy. Existing research has been predominantly case study based, generating conflicting results; here, we use a large scale international survey. There is an extensive English-language literature on JCCs and unions' fortunes. Some research suggests complementarity between JCCs and unions (see, in relation to the USA, Batt et al., 2002; Rubinstein, 2000). Yet most researchers are more pessimistic. It is widely suggested that JCC presence reflects union weakness and that where they exist they weaken unionism further. Though potentially securing a workplace presence, unions may be forced to sacrifice autonomy and relate more closely to managerial agendas. Moreover, significant resources may have to be deployed by the union to secure, consolidate and maintain their presence in works councils. Such investments may be difficult for contemporary unions to make as their resources are stretched by reducing membership. Moreover, management pressure may positively attempt to disarticulate unions and works councils. US-based MNCs in Germany, for example, have shown a marked preference for works council representation and an antipathy to unions. At worst, such arrangements may pave the way for explicit managerial attempts at union substitution or union-busting (Bacon and Storey, 2000).

Hence, for our purposes here we hypothesize that:

H1 The presence of a WC or JCC is likely to be correlated with low organizational levels of union density.

Secondly, there are clear arguments for the effects of consultative bodies on trade unions being likely to vary according to business system (Whitley 1999). Hence:

H2 The operation of JCCs and WCs is likely to have different consequences for unions in different national contexts.

Method

The data employed in this paper to test these hypotheses are from the repeating Cranet survey, which now contains evidence on human resource management issues of private and public organizations in 22 European countries, as well as some dozen others (Brewster et al 2004). The data set used in this paper contains countries fitting easily into the 'Deregulated'/ Liberal market, 'Rhineland'/Continental European, 'Scandinavian'/Social Democratic and 'Transforming'¹ categories (Amable 2003; Whitley 1999). The data is broadly representative with respect to size of industrial sectors by employment in every country. The data are not evenly distributed over the countries, however. So, though the survey is representative for each of the countries included in the survey, the survey is not representative for the overall area covered.

The survey targets organizations that employ more than 200 employees. In a few smaller countries however the survey targets organizations that employ more than 100 employees: about 20% of the observations in the survey involve organizations that employ less than 200 employees and these have been included in the current article. About 70% of the observations of the survey have been completed by the most senior personnel or human resource manager. The other observations involve less senior specialists in the same field or the chief executive or the company secretary.

Findings and Conclusions

Table 1 summarizes the findings of an OLS model. The basic proposition is that trade union density, i.e. the percentage of employees who are trade union members, is a function of the environment in which the firm operates. Therefore the proportion of trade union members is influenced by factors such as the size of the firm, its industrial sector etc. An empirical model is estimated controlling for those environmental factors available within the data. The model is controlled for a number of factors likely to influence union membership. The first hypothesis presupposes that there is a negative relationship between the extent of union density within the firm and the presence of a JCC/WC. This is therefore used as an explanatory variable with a dummy variable indicating those firms where a JCC/WC is present.

Table 1: OLS Model of Trade Union Density

	Coefficient	t-ratio
Constant	29.88*****	23.4
No. of employees (000's)	0.09-	-0.4
JCC/WC	0.002***	16.6
	16.25***	

¹ Bulgaria, Czech Republic, Slovenia and Estonia.

Individual Bargaining	-6.5***	-7.3
Agriculture, hunting, forestry, fishing	-10.99***	-4.1
Energy and Water	-0.29-0.56	-0.2
Chemical Products	1.43**	0.6
Other manufacturing	-2.51	-1.9*
Building and civil engineering	-6.48***	-3.2
Retail and distribution	-20.76***	-11.6
Transport and communication	-5.11***	-2.5
Banking, finance, insurance	-20.08***	-11.6
Personal, domestic, recreational services	4.46	1.3
Health services	-8.61***	-4.0
Other services	-10.2.7***	-4.5
Education	-8.79***	-3.6
Local Government	-5.85***	-2.9
Central Government	-12.84***	-5.0
Other	-10.60***	-6.2
Public Sector	14.95***	12.5
'Rhineland'	-11.6***	-10.6
'Scandinavian'	34.6***	30.0
'Transforming'	7.80***	6.1
Dependent Variable	TU Density	
Mean	42.34	
Number of Observations	4425	
R-squared	0.432	

*, ** and *** denotes significance at the 10%, 5% and 1% levels respectively.

The second hypothesis relates to differences in the extent of trade union membership in different types of country. Hence a final set of dummy variables is included to separate the countries into the 'Deregulated/compartamentalised', 'Rhineland', 'Scandinavian' and 'Transforming' categories outlined above, with Deregulated/compartamentalised countries being used as the reference category. The second hypothesis supposes that the processes influencing the extent of trade union membership are fundamentally different in each of the country categories. The model is therefore re-estimated separately for each of the country groups and a structural test based on the Chow test is applied to establish if this is the case (table 2).

Table 2: Structural Test Results

Category	F- Test Statistic	Outcome
Deregulated/compartamentalised	9.29	Reject at 1%
Rhineland	36.34	Reject at 1%
Scandinavian	75.51	Reject at 1%
Transforming	5.76	Reject at 1%

The survey revealed that both Works Councils and JCCs are associated with a union presence, irrespective of business system. Therefore, both hypotheses are rejected. There is no evidence here that either have been used by employers as a substitute for unions, in any business system. Thus, the prevalent view that

WCs/JCCs operate to undermine unions is less plausible than the view advanced by a minority of researchers that the two sets of institutions are associated with each other.

The association of unions and works councils demonstrates a significant commonality between larger organisations operating in very different business systems. A large component of the varieties of capitalism literature tends to obscure this phenomenon. As Amable (2003) notes, specific national business systems represent particular mixes of practices; for example, significant numbers of firms operating in a cooperative business systems may be associated with employment relations practices more commonly associated with a liberal market system and vice versa. Whilst it remains correct that certain clusters of practices tended to be associated with specific countries, this would underscore the importance of the regulationist critique of the varieties of capitalism literature; whilst specific features of production regimes may indeed be complementary, regulation can never completely eliminate imbalances, and considerable variety in firm practices persists (Boyer 2006).

The relationship between WCs/JCCs and collective bargaining is therefore neither one of mutual exclusion or *complementarity*; our research has shown that they tend to coexist (c.f. Boyer 2006), yet we have no evidence that the effectiveness of each (for either employers or employees) is necessarily enhanced by the presence of the other. Rather, the role and scope of each remains a contested terrain, opening up challenges and opportunities for organized labour. Our research evidence would underscore their mutual *compatibility* (ibid.); that each tends to be associated with the presence of the other, allowing unions to pursue a broader agenda than would be possible through only one of these two mechanisms on its own. In the absence of such a response, this coexistence may fragment and weaken organized labour.

The results have further significant implications for union policy. They underscore the extent to which union fortunes are contingent on more than outreach and organizing drives. Unions have to show a capacity simultaneously to both compete and collaborate with non-union based representation since, ultimately, it is the quality of representation that counts (Hyman, 1997). The results show that the innovative and sensitive use of other structures for collective representation commonly found at unionised workplaces is also likely to be important. Increasingly, unions' appeal depends on their capacity to address the needs of all employees (and not only their own members) through consultation, and to integrate non-union representatives into their approaches. This argues for unions prioritising both networking and experiential education among workplace representatives since both are likely to intensify exchanges of experience and thereby increase representatives' effectiveness.

The finding also throws into relief the way in which those existing paradigms of HRM within which industrial relations occupy no more than a marginal role are inadequate and potentially limit management education. Managers are evidently operating simultaneously across two related but distinct areas: with unions and WCs/JCCs. They have to manage and negotiate all of the subtle distinctions and fine lines between the different bodies identified above. They have to grapple with complex questions of relative representivity and legitimacy of the different types of body they are dealing with. Further, they must use both negotiating and consultation skills, defining and distinguishing carefully between the different contexts. These delicate operations across ill-defined borders seem precisely the type of areas in which management education could make a real contribution to practitioners. However, management educators currently find little assistance from HRM literature to assist them.

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