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Rights and Respect: a vision for democracy in the workplace

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Hands up for democracy at work



Rights and Respect: a vision for workplace democracy

Summary

The paper outlines a number of proposals for (re-)establishing and extending democracy at work for consideration by the union movement. Firstly, it considers the manifest lack of democracy at work as management's ability to act unilaterally or with the manufactured consent of workers has drastically increased over the last few decades. Then the paper outlines eight proposals which concern establishing the framework, institutions and processes for creating and enhancing democracy at work. Lastly, it discusses some of the issues involved in campaigning and mobilising to gain such reforms.

Rights and Respect: a vision for workplace democracy

Gregor Gall¹²

Introduction

The arrival of a (slim) majority Conservative government on the morning of 8 May 2015 was a body blow to the widespread hopes that the continued attack on workers and their workplace rights would come to an end - and be put into reverse. We knew from the Conservatives' election manifesto that not only would all the existing hallmarks of a deregulated labour market stay in place but they would also be further extended, especially on the right to take industrial action. This has become most evident in the *Trade Union Bill* for it seeks to curtail the rights and abilities of workers and their unions to undertake industrial action as well as mount leverage campaigns and picketing. Employer power in both the private and public sectors will now be both reinforced and increased at the expense of workers and their unions. Without the effective right to take industrial action, collective bargaining is turned into what some have called 'collective begging'.

Historical experience tells us that not only do we need stronger unions to protect and advance workers' rights but we also need these rights - and the means to support them - to be enshrined in law so that they cannot easily be ignored, overturned and abolished. Ultimately, this means not just legislation but being embedded in a constitution. This paper puts forward proposals for a wide array of means – a menu - by which to create and sustain workers' rights in the workplace and at work. Only with these rights will workers have the 'respect' which they rightly deserve. The paper leaves aside for the moment the issue of how these rights can be gained and sustained other than to say that this will require a multi-faceted industrial, political and ideological struggle of huge proportions to be mounted and on a long-term basis.

This paper begins by setting out the meaning of key terms and their current context prior to laying out the proposals. The proposals themselves avoid specifying the precise, detailed characteristics they would have and the precise, detailed processes by which they would operate by. For the time being, it is more important to put forward the ideas and principles. None are not new ideas but the paper seeks to return to them revisit their potential promise. The working out of the detailed practical proposals flowing from the general ideas is a matter for the concerned workers and their unions.

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² My thanks are due to Jackson Cullinane (Unite Scotland), Lynn Henderson (PCS Scotland), Dave Moxham (STUC), Bob Thomson (JRF) and Dave Watson (UNISON Scotland) for advice and comments in revising this paper. Thanks are also due to Danny Williamson (PCS Scotland) for providing information on works councils. The paper remains an independent piece of work from Jimmy Reid Foundation and is not the property or thought of any other organisation or individual.

Meanings and context

It is worth starting with some basic facts. Workers, almost exceptionally without other sources of income, rely on the wages from their jobs to support themselves and their families. It either makes or breaks them. The life chances and standards of living of workers are most heavily influenced by their employment (which itself is a factor of social class). Unlike our representative system of democracy (Westminster and devolved parliaments, local authorities), there are no elections to decide *who* are the managers, directors and chief executives that run and control the organisations that people work within. There are no referendums to decide *how* these managers, directors and chief executives should run and control the organisations that people work in. Subject to light touch regulation, employers can hire and fire at will (including making mass redundancies). In essence, employers' - and their managers' - right to manage and do as they see fit results from their ownership of these employing organisations. To own is to control and to benefit from. And, profits, dividends and exorbitant executive and managerial salaries and 'reward' packages come from the exploitation of workers' labour because workers do not receive they full value of what they make or deliver. Apart from sleeping, for workers working is the one single activity that will take up most of their entire lives from the period of leaving school/college until retirement. On that basis, decent, satisfying work becomes something of a human right. Otherwise, workers' lives are very much more for living to work and not working to live. These facts alone suggest that workers should have some considerable influence over not just the wage-effort bargain that they must engage in and which takes up most of their lives but also over the conditions organisations demand that they work under (i.e., the organisation of work). In other words, the contemporary workplace exhibits a lack of *industrial* democracy. And without *industrial* democracy, steps towards wider *economic* democracy will be stunted.

Over and above recognition of these basic but crucial facts about contemporary capitalism, there is a huge democratic *organisational* deficit in terms of the process and structures of collective representation in our workplaces. This can be measured in a number of ways. By 1980, there were around 328,000 union representatives, with representatives present in 50% of all workplaces with 25 or more employees. By 2004, union representatives were present in just 23% of workplaces with 25 or more employees, and their number had fallen to 128,000.³ By 2011, there were approximately 150,000 union representatives and 45,000 non-union representatives in workplaces with just 5 or more employees. It is not just the quantity of representatives that is important but also their quality given that non-union reps are a poorer fare than union reps with the resources and independence of mind to seek to hold employers to account. Moreover, the introduction of the *Information and Consultation of Employees Regulations 2004* which now cover all workplaces of 50+ workers (from 2008) has not created an avenue of alternative representation to unions in either quantitative or qualitative terms. Indeed, there is a wider representation gap where, in 2011, only 36% of workers work in workplaces with union representatives and only 17% of workers work in place

³ Figures from Charlwood, A. and Angrave, D. (2014) 'Worker representation in Great Britain 2004 – 2011: An analysis based on the Workplace Employment Relations Study' ACAS Research Paper, 03/14. Available at: http://www.acas.org.uk/media/pdf/3/a/0314-Worker-representation-in-Great_Britain-2004-2011.pdf

with non-union representatives – meaning that 47% of workers have no form of representation whatsoever.⁴

The fall in the number of union representatives mirrors the fall in union membership and union density as well as the extent of collective bargaining. Union membership has halved from 13m in 1979 to 6.5m in 2014, density has fallen from 55% to 25% in this period (with private sector density now at just 14%), and the coverage of collective bargaining has fallen from 36% in 1996 to 27.5% in 2014.⁵ And, although Scotland continues to have a higher level of union density than England (but not Wales or Northern Ireland), it has not been protected from these drastic falls in union representation. There are many reasons to explain why the number of union representatives, union members and so on have fallen but two things are clear – employers have played a large role and have been the main beneficiary too.

Other aspects of the democratic deficit are over a) statutory union recognition, and b) statutory consultation on changes at work. The introduction of a statutory process for gaining union recognition in June 2000 has not resulted in a resurgence of union recognition in workplaces. Less than 1,000 applications have been made in the last 15 years, with less than a 40% success rate in gaining recognition.⁶ Clearly, the thresholds for making an application and then the criteria for gaining recognition are too ‘employer friendly’ – indeed, there is no legal regulation of what employers are able to do to stop unions getting into a position of being able to submit an acceptable application and very little regulation of what employers are able to do once an application has been accepted. Workers’ rights in law on consultation over redundancy and changes to terms and conditions do not oblige employers to negotiate, and informing and consulting does not have to lead to agreement that workers find satisfactory. Moreover, small workplaces are excluded from even these requirements. It is for these reasons that unions rightly point out that it is easier to sack workers in Britain than elsewhere in the European Union.

What is meant by ‘rights and respect’? This is not just about how workers are treated individually and collectively by managers and management in the workplace and it is not just about their pay and conditions. It is also about how the organisation that they work for treats them in terms of allowing (or not allowing) workers to influence the purpose of the organisation, the way the organisation works to carry this out and how it does this. So every worker has this moral right to be treated in a fair and equitable way in the workplace – that is a ‘human right’. But this is not enough and so workers as a collective body – indeed, the biggest body of people in any organisation - and with collective interests have the moral right not to just be informed and consulted on what will happen to them and to the organisation they work for. Rather, they also have the moral right to influence what happens to them and

⁴ Figures from Charlwood, A. and Angrave, D. (2014) ‘Worker representation in Great Britain 2004 – 2011: An analysis based on the Workplace Employment Relations Study’ ACAS *Research Paper*, 03/14.

⁵ Figures from BIS (2015) *Trade Union Membership 2014*, BIS, London. Available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/431564/Trade_Union_Membership_Statistics_2014.pdf

⁶ See Gall, G. (2012) ‘Union recognition in Britain: The end of legally induced voluntarism?’ *Industrial Law Journal*, 41/4:407-438.

to the organisation they work for through collective bargaining and a process of co-determination. In this sense, rights and respect mean the right to representation of their views and interests as well as the means by which to seek justice for their grievances. Rights and respect, therefore, combines means and ends. Of course, this is not just a matter of 'voice' – being heard and being listened to – but also of outcome and effectiveness so that the representation of workers' interests has meaningful and beneficial results for workers.

In the wider economy, it means giving workers – who comprise the biggest social group in society – an equitable share of the wealth created in society. This could be termed 'economic respect'. In 1976, 65% of the value of gross domestic product (GDP) was accounted by wages and employer pension contributions. By 2014, this had fallen to 50%.⁷ As if that was not bad enough, what is worse is that the growing wage inequality means that within this remaining 50% the now vastly more inflated salaries of company directors and executives (compared to 1976) are included so that what workers get as a percentage of GDP is even less than 50%.

The process of democratising the workplace and assuring workplace justice cannot merely be confined to the workplace itself - because many of the critical decisions that affect individual workplaces are taken by employers in a centralised manner and at much higher organisational levels – whether this be the division, subsidiary or the company. This requires that workers have influence over these decision making processes in order to protect their own interests. This is why the requirement of co-determination and encroaching control (see below) are so important.

What is more, the Europeanisation and inter-nationalisation of capital means that these decisions are often not taken within Britain alone. Unfortunately, means of regulating capital through European and world or global works councils are very weak for these bodies are more concerned with information and consultation rather than negotiations. Moreover, the weakening of European Union social protection and the inability to strengthen international labour law and international labour standards means that the importance of advancing the workers' interest within the political framework of Scotland and Britain has taken on an added importance.

Eight Proposals

i) Union recognition and collective bargaining

All workers in workplaces regardless of size have the right to union recognition and collective bargaining where a collective (of two or more) workers demand this and regardless of union density. Negotiations would be obliged to cover not just terms and conditions of employment (like pay, conditions, holidays, working-time agreements, pensions etcetera) but also the organisation of work (job responsibilities, staff levels, flexible working etcetera). There would be no need for minimum thresholds for making recognition applications or conducting ballots or membership audits (all of which resistant employers seek to use and influence for their

⁷ *Tribune* 4 May 2015.

own ends).⁸ This right would be supplemented by the right of two or more collectives of workers in different workplaces within the same company to demand the right to engage in company-wide bargaining and workers in two or more companies to demand the right to engage in sectoral/industry-wide bargaining (see below). A floor of universal rights from day one of employment for individual workers is needed alongside this as is protection from victimisation and employer anti-unionism so that workers are fully and freely able to exercise their right to collective bargaining and union representation.⁹ So too are things like facility time for union representatives so that union representation is as effective as it can be. The results of collective bargaining, where necessary, should be able to be enforced in law (given that there is no 'duty to bargain' legislation in Britain within the statutory union recognition process).

ii) The right to take industrial action

Notwithstanding the Tories' reform of the laws governing industrial action, it may seem surprising that there is no positive right to strike in Britain. While unions have the legal privilege not to be sued for loss of business for organising industrial action and taking industrial action subject to meeting certain requirements, for workers striking or taking industrial is a still (civil) breach of employment contract law. Many other European countries have these rights enshrined in their constitutions or in acts of parliament. Not only must this happen in Britain but a) the right to strike or take industrial action must be unhindered by interference from outside bodies and only union members must have the right to determine when they strike and how they strike; and b) the right to take secondary or sympathy action (striking, picketing, blacking etc) must be also be re-introduced. This would then give an effective reality to the obligations that Britain has to international law and human rights (Article 11 of the European Convention on Human Rights and Article 23 of the Universal Declaration of Human Rights on freedom of assembly and association). But the critical reason is that workers must be able to face employers in a collective manner where they can aggregate their resources because if workers remain separated from each other they will always remain weaker than employers. This is, therefore, about the basic right of fairness and democracy. The relevance of these rights is that under virtually any of the other proposals in the paper, the right to be able to take (if necessary) industrial action to defend and advance workers' collective interests is crucial – the proposals cannot work unless these particular rights on industrial action are also in place. The wheel does not have to be re-invented here for in 2006 and 2008 John McDonnell MP laid before Parliament the *Trade Union Freedom Bill* and *Industrial Action (Minor Errors) Bill* via the private members route – so this provides an excellent starting point to develop the policy and legal measures needed.

iii) Sectoral collective bargaining

In Germany, lawfully supported sectoral collective bargaining exists. It requires that employers must bargain with the appropriate union in each sector at a regional level. What

⁸ Nor would there be the same need to improve union access and information rights when ballots take place.

⁹ Here, the international obligations to enforce freedom of association would be delivered upon, and show that such a freedom is worth very little unless there is a right to union recognition.

this means is that workers in different workplaces of the same company and of different companies can band together in order that they meet the employers on a slightly more equal footing. Put around the other way, employers are far less able under this system to divide and rule workers by insisting on company level bargaining or plant level bargaining. This fragmentation not only stops workers from aggregating their resources together but also pits them against each other so that they are in competition with each other over terms and conditions of employment. Instead, sectoral bargaining allows wages – and many potential conditions – to be taken out as a factor of competition between companies. If companies want to compete with each other, they can do so on the quality and not the price of their goods and services. It is a key part of the wider system of co-determination (see below) but it can work on its own.¹⁰

iv) *Co-determination*

The strength of the case for co-determination rests largely on the limitations of collective bargaining (even when collective bargaining is underpinned by law and in its sectoral forms as advocated above). Collective bargaining has traditionally been best suited to negotiating over terms and conditions of employment like pay, hours of work etcetera. And it has been traditionally of a reactive nature, aimed at responding to the actions and behaviours of management and employers (save the examples of demanding a pay rise or improvements to terms and conditions). It has also traditionally taken place at the lower levels within the structures of an organisation. All this means that collective bargaining is not always particularly well suited to the pro-active task of initiating actions to influence at the highest level the decisions that determine how an organisation works (lower down) and what it does. These issues pertain to the big items of investment decisions, organisational purposes and policies etcetera with individual companies. A system of co-determination can allow workers to have a ‘say’ (at company board/director level) in the process by which these fundamental decisions are made and a ‘say’ on what the outcomes are. The strength of this ‘say’ and whether it constitutes more than just a ‘say’ (i.e., producing manifest and positive outcomes) depends upon how many worker directors are permitted, what proportion of all directors they make up and the rules by which the directors operate (consensus decision making, voting, majority voting, right of veto etcetera).¹¹ It also depends on whether a mechanism of essentially consultation can be turned into one of and for negotiation.

¹⁰ See Ewing, K. and Hendy, J. (2013) *Reconstruction after the crisis: a manifesto for collective bargaining*, Institute of Employment Rights, Liverpool (see http://classonline.org.uk/docs/PREVIEW_Reconstruction_after_the_crisis_-_Manifesto_for_Collective_Bargaining.pdf). Its ‘Ten-point collective bargaining manifesto’ (19 September 2013) summarises its *Reconstruction after the crisis: a manifesto for collective bargaining*. The ten-point manifesto was backed by ten national unions (ASLEF, ATL, CWU, GMB, NUT, PCS, RMT, UCU, Unite and Unison) by late 2013. Manifesto available at: <http://www.ier.org.uk/resources/ten-point-collective-bargaining-manifesto>

¹¹ The historical experience of worker directors in Britain has been limited to the Post Office and British Steel given that the Bullock Commission proposals were not implemented by the 1976-1979 Labour government. The only major company known to currently have a worker director is the bus and train operator, FirstGroup.

The best way to explain and assess the benefits of co-determination is to look at an example. Since the ending of the Second World War, West Germany (and now Germany) has operated a system called co-determination whereby employers of a certain number of employees are lawfully obliged to have worker members sit on the supervisory board of companies (effectively as worker directors) and have works councils in operation at the plant/site level. This has not created a non-union alternative but instead a system heavily colonised by unions and which, thus, gives them an array of legally underpinned institutional and organisational rights. So while works council cannot negotiate over wages or call strikes, they can – in alliance with the operation of unions – regulate management at the workplace level in terms of the organisation of work. Of course, there are dangers in transferring such a system – not least because if the rights given to the works councils and the supervisory boards are not extensive then they can be close to worthless at best and corrosive of unions at worst. Another danger is that unions become incorporated into the structures and mentality of co-determination so that their agenda is downplayed and their independence is eroded.¹² However, the case of Germany shows that unions and co-determination can work well together to the benefit of unions and workers. Co-determination (along with obligatory sectoral bargaining – see above) has supported unions so that they are legitimate and powerful parts of industrial relations and society because they have significant rights enshrined in law. Co-determination has given unions the ability to question and challenge what management does in terms of investment, work organisation and business strategy, thus going beyond merely negotiating over the terms and conditions of employment and how workers are affected by these management decisions *after* management has exercised its power to make these decisions. Information gained through co-determination can be used in and for collective bargaining.

Where appropriate criticisms can be made of co-determination, these are often concerned with the way unions work – whether they are democratic, accountable and participative – and what ideology they work by. Unfortunately, many unions in Germany have been far too keen on social partnership (to pursue supposed ‘common interests’) and have become very bureaucratic but this is not so much because of how the supervisory boards or works councils operate but because of the influence of the British TUC in setting up the new industrial unions after the end of the Second World War. The TUC installed an ideology of social partnership as it sought to prevent the re-emergence of fascism and the encroachment of Soviet communism. If anything, the case of Germany shows that unions can become too dependent on their institutional rights because union density is lower in Germany than it is in Britain – the reason being that unions are afforded these rights without regard to membership levels. Unions, therefore, need to be vibrant and democratic and this is, of course, a job for unions themselves. Nonetheless, there are several reservations about co-determination. It does tend to blur the conflict between capital and labour and the distinction between their respective interests; it often operates by ‘Chatham House’ rules and so on. Lastly, it is worth noting that some considerable holes have opened up in the coverage of co-determination in Germany in the private services sector as a result of the operation of the likes of non-union employers, McDonalds, Lidl, Aldi and other retailers. These holes are not inevitable and can be addressed

¹² See, for example Cullinane, J. (2014) ‘It’s all about unions’ *Scottish Left Review*, issue 82, May-June 2014, pp18-19. A version of this was also published in the *Morning Star* (19 August 2014).

by legislative changes. It is for such reasons that alternative strategies for contesting employer and management control exist and which are not based on any notion of social partnership. One is a strategy of encroachment (see below).

Before moving on, it is worth considering the pros and cons of works councils given that they are a key component of German and Swedish co-determination *and* that works councils exist on a number of other levels (company and global levels which are voluntary and European which are mandatory). They represent a very low level of formal influence given that they are based upon consultation and information exchange (and not negotiation). Yet they can provide for i) access to strategic level information that can be useful for bargaining and organising; ii) access to senior management; and iii) access to union representatives in other countries. But in some cases, works councils can be used by employers to undermine collective bargaining and to incorporate union reps into a pro-management ideology.

v) *Strategy of encroachment*

Since the early 1980s, employers and management have encroached upon the power and influence of workplace unionism and shop stewards by taking the initiative through introducing a series of new practices such as teamworking, quality circles, employee involvement and employee engagement. Under the rubric of Human Resource Management and Total Quality Management, capital has, thus, increasingly been able to take back control of the organisation of work in the workplace by inculcating an ideology of managerially defined productivity into workers' minds (where workers in one company are to compete against workers in other companies). Workplace unionism and shop stewards had won substantial amounts of control over the organisation of work in the period since the 1960s. Today, workplace unionism and shop stewards are mostly concerned about regulating pay and associated terms and conditions of employment and not about the organisation of work and the process of work. This ground concerning the day-to-day organisation of work over the likes of staff levels, targets and performance has, thus, to be regained. The strategy of workplace union encroachment upon the managerial prerogative is likely to have the same genesis as before, whereby workplace unions decide to contest management's right to manage at the shopfloor level and from here move upwards towards issues like re-organisations and restructuring which take place at the (higher) company level. Unions themselves will need to allow and support workplace unions' right and ability to do so. Such encroachment is to envisage the kind of strategy advocated by the Institute of Workers' Control in the 1960s and 1970s. It was based upon the notion that workers have independent, different and separate interests from employers, management and shareholders (capital and its representatives). But it was also based on the notion that if unions are to be as meaningful to workers as they can be, the work of unions has to be centred upon the experience of work and collective ways to influence its nature in the workplace (rather from outside by unions or third parties like the law).¹³

vi) *Public ownership*

¹³ Participatory economics (Parecon) as advocated by Michael Albert – see his *Parecon: Life after Capitalism* (Verso, 2004).

Public ownership of the key sectors of the economy – what are often referred to as natural or strategic monopolies like utilities like water, electricity, gas, oil air, road, rail and sea transport, postal and electronic communications - is vital so that not only can the workers there have more control over what their terms and conditions of employment are – it is also vital so that other workers as citizens can exert control over the economy that they are part of. Moreover, if these key sectors of the economy were in public ownership, this would also give indirect influence over other sectors of the economy because many companies are dependent upon infrastructures comprising utilities, transport and communications (see below in terms of procurement). The term ‘public ownership’, rather than nationalisation, is used because the nationalisation of old witnessed industries being run by senior government appointed civil servants and not the workers of those industries or members of the public. Public (or municipal) ownership must, therefore, be democratic and accountable in terms of allowing workers employed and citizens affected the right of influence over the goods and services provided, their quantity and quality and means of delivery.¹⁴ But there is also a benefit about efficiency and for wider society from public ownership. The knowledge that workers have in their own industries can be used to make these industries safer, cleaner and more productive for not just the workers in those industries but all citizens as well. Processes and structures – as a result of legislation - need to be put in place to ensure these outcomes can be generated.

vii) *Worker cooperatives*

Worker cooperatives, when properly financially resourced and supported by appropriate institutional and legal infrastructures, can provide workers with a large degree of control over their experience of work (as the longstanding examples in the Basque country in Spain and in Italy as well as in newer experiments in France, Greece, Turkey and elsewhere in Spain indicate).¹⁵ Worker cooperatives are defined as employing organisations where all those that work within the cooperative are owners of the cooperative and able to, thus, determine what is produced, how it is produced and under what conditions. The knowledge and experience that workers themselves have from performing their jobs can then be deployed to make the production of good and services more efficient and more effective so that the quality of those goods and services is enhanced. Workers can then get something like the full fruits of their own labour – as there are no capitalists seeking to make a profit out of them – and citizens get better products and services. As with co-determination, there are some potential dangers with cooperatives such as them trying to be ‘islands of socialism in seas of capitalism’ with the effect that workers engage in a game of self-exploitation in order to survive or that the co-operators become capitalists. But whether or not this happens is not down to the inherent nature of cooperatives but the conditions under which cooperatives exist, namely, state support allowing cooperatives to get to the point of being numerous enough and big enough to become self-sustaining as in the Basque country in Spain (Mondragon) and in Italy (the Emilia-Romagna region). State support can go even further, where the political will exists, so that cooperatives are preferred over capitalist enterprises and, thus, do not have to

¹⁴ This would help stop the possibility of workers running their industry/sector to more of their own sectional benefit and less for the greater public good.

¹⁵ See *Guardian* (2015) ‘May Day: workers of the world unite and take over – their factories’ 1 May.

compete directly with them. Some provisos still need to be entered into. The first is that worker cooperatives should not be used to undermine public sector provision in any tendering processes by undercutting public sector workers' terms and conditions of employment as has been the case in the promotion of David Cameron's 'big society'. Cooperatives then should only be an alternative to private, and not public, ownership. The second that is cooperatives and their co-operators should not pursue narrow, sectional interests and so a sense – or even clause in their constitutions – is needed on being mindful of public interest so that cooperatives have a public service duty.¹⁶ Lastly, the definition of a cooperative is sacrosanct and cannot be negotiated over. If this does happen then a range of unconventional ways of running capitalist companies start to enter the fray such as the likes of the John Lewis partnership or the Tullis Russell Group.¹⁷ Such examples which purport to be cases of employee ownership are not the same as cooperatives (even if they make be seen by some to be preferable to conventional run capitalist companies).¹⁸ The key difference between them and a cooperative is the stark chasm between them concerning the level of worker control.

viii) Tripartism

Tripartism – the joint regulation of the economy by labour, capital and state and sometimes known as corporatism – is necessary to complement the other seven proposals in a way that not only underpins them but also makes them together more than the sum of their parts. Without tripartism, the danger for unions is that even if the other proposals are integrated together, at the highest level the (capitalist) economy will undermine them because decisions by capitalists and movements in the markets will erode the ability to protect and advance workers' interests through the other proposals. The most obvious forms of tripartism are to have a single national council for the entire economy and then particular councils for specific parts of the economy like energy and transport

What's already on offer - mutual gains and partnership

¹⁶ See Davies, S. (2013) 'Mutual Benefit: Should mutual, co-operatives and social enterprises deliver public services?' for further detail on this. The report was commissioned by UNISON – see <https://www.unison.org.uk/content/uploads/2013/06/On-line-Catalogue199463.pdf>

¹⁷ It states it is a 'progressive, employee-owned company, trusted by generations of clients and brandholders worldwide. We operate a sustainable, employee owned business, which at its heart has a deeply held belief that working in partnership with our customers is better - for us, and for you' (<http://www.tullisrussell.com/>).

¹⁸ Even the particular social enterprise model adopted by Welsh Water has its limits for even without shareholders (as it has bondholders and is a private company limited by guarantee) and with a board drawn from various parts of Welsh society (including two former union officers), it is not employee owned, let alone a cooperative.

The 'business case' or 'mutual gains' argument from the likes of the SNP¹⁹ and TUC²⁰ that workplace democracy can help improve private sector productivity and, thus, provide for better, more secure and higher paid jobs is not one to be lightly dismissed²¹ *but* it must be seen as secondary to the primary objective of achieving a more equal balance of power in the workplace in order to ensure meaningful rights of, and respect for, workers. This is because only if the processes and structures of workplace, industrial and economic democracy of the type outlined in this paper are established can the potential fruits of higher productivity be more equal distributed between capital and labour. But it is also because higher productivity does not in itself lead to higher pay and more secure jobs as this depends on whether the output of high productivity can be sold in the market place for a higher return – and we know that this is not always the case as the recent recession showed.

However, there is also a danger lurking behind the attachment of too much significance to the mutual gains argument – this is the danger of partnership. If employers have an interest in obtaining higher productivity through partnership arrangement, then they will seek to determine the form of partnership that exists. And they do, calling them various forms of worker participation and employee involvement where union representation may or may not exist. For unions, the only forms of 'partnership' and 'working together' that are acceptable and possible are those when there is a true semblance of an equal balance of power between capital and labour – the very types of partnership that employers do not want and will not concede without being forced to (hence the need for the statutory underpinning to co-determination, collective bargaining and so on).

How do we achieve this policy agenda?

Self-evidently, the Tories will not deliver this policy agenda in whole or in part, whether voluntarily or under coercion. The issue of whether Labour will is now a much more open one since the election of Jeremy Corbyn to its leadership on 12 September 2015. Before his election, Labour would have balked at going this far given that it only proposed in its 2015 general election manifesto on work and employment to allow workers a say in setting executive pay by putting employee representatives on remuneration committees.²² Now, there is the possibility that Labour under Corbyn may move in the direction of the proposals (particularly as this policy area falls within the remit of John McDonnell as Shadow Chancellor). For example, in launching his policy for a high technology economy, McDonnell argued:

¹⁹ SNP (2015) *Stronger for Scotland – manifesto 2015*, p17, and Scottish Government (2014) 'Fair Work Convention created' press release, 15 October.

²⁰ TUC (2013) *Workers on Board: the case for workers' voice in corporate governance*, September. Available at: https://www.tuc.org.uk/sites/default/files/Workers_on_board.pdf

²¹ See also Roberts, M. and Gold, J. (2015) *Productivity – a comparison in manufacturing: UK, France, Germany & USA*, Unite, <http://www.unitetheunion.org/uploaded/documents/Comparison%20In%20Manufacturing%20Booklet11-25509.pdf>

²² Labour Party (2015) *A Better Plan for Britain's Workplaces*, April, http://b.3cdn.net/labouruk/Od7eac1a5ecd182f46_e8m6ivtck.pdf

*Meeting the challenges of the future requires a state that can think and act strategically. We need to ensure that we exploit these possibilities in a way that creates, and does not restrict, opportunities for workers. To facilitate this, we must re-establish a system of worker participation in management, with a supply chain of information between shop floor and government that brings workers and unions together to advise policymakers on the future direction of the economy.*²³

Later, he proposed a new ‘right to own’ for workers where the companies they work for were facing dissolution, sale or floatation on the stock exchange would be able to draw upon publicly provided funds to buy the shares in or the company itself.²⁴ Corbyn has also advocated using cooperatives to bring about economic and industrial democracy²⁵ and both McDonnell and Corbyn have argued for a return to public ownership of the railways (as opposed to ‘renationalisation’ – see earlier). The policy proposals outlined in this paper go considerably further than Corbyn and McDonnell have indicated they wish to (to date). Nonetheless, it is possible to now have a fuller and more widespread discussion and debate about such proposals because of the pronouncement of Corbyn and McDonnell. Moreover, Corbyn and McDonnell may be willing to go further as a result of persuasion or pressure. But moving from discussion and debate to changing government policy is another matter. So whether Corbyn and McDonnell will be successful with their more limited agenda is critical and it remains to be seen whether they will in terms of a) opposition from the Blairites, soft left and the right wing within Labour; and b) winning a forthcoming general election to implement such policy reforms (and which could be as late as May 2020).

Notwithstanding the development of the *Fair Work Convention* at the behest of the SNP and its attempts to introduce some notion of decent, edifying work into workplaces in Scotland, the SNP would find such the proposals outlined in this paper way too radical because as its 2015 general election manifesto stated it was pro-partnership, seeking an environment of mutual gains. And all pronouncements since have been in that mould.²⁶ Indeed, the SNP is generally far stronger on issues of process when it comes to such matters than issues of outcomes so that the rhetoric is far better than the reality.

This means that at the moment no major mainstream political party can yet be relied upon or used to advance and achieve the agenda represented by the eight proposals in this paper. This does not, however, mean that it cannot be achieved. Rather, it means that the pressure to achieve this agenda must come from outside the political parties. This may sound self-

²³ See *Guardian* 20 November 2015

<http://www.theguardian.com/commentisfree/2015/nov/19/john-mcdonnell-labour-technology-tax-economy-of-future>

²⁴ *Guardian* 21 January 2016, *Morning Star* 22 January 2016. It should also be noted that changes in company or commercial law would also be needed to allow cooperatives to flourish.

²⁵ For example, he has also supported the Private Members’ Bill of Gareth Thomas to introduce a mandatory profit sharing scheme (*Morning Star* 27 January 2016).

²⁶ See Nicola Sturgeon’s Third Annual Jimmy Reid Lecture for the Jimmy Reid Foundation on 24 November 2015, <http://news.scotland.gov.uk/Speeches-Briefings/Jimmy-Reid-Memorial-Lecture-1fa2.aspx>

evident – and it is. But it is the particular way in which this needs to happen that is not quite so self-evident. Unions and the union movement need to recall how the movement for workplace democratisation arose in the 1960s and 1970s, culminating in a number of experiments and advances in order to get a handle on this: for example, the creation of new cooperatives, workers' alternative plans (e.g. UCS work-in, Lucas, Plessey etcetera), the Committee of Inquiry on Industrial Democracy (popularly known as the Bullock Commission/Bullock Report after its chair), the spate of factory occupations, the establish of the Institute for Workers' Control, and the encroachment of shop steward control into traditional areas of management prerogative.

Whilst most major unions were affiliated to the Labour Party at this time, not all the efforts to democratise workplaces were made directly through it. Even those that were – such as the 'Benn cooperatives' and the Bullock Commission – arose as result of Labour responding to extra-parliamentary pressure. So while a political party might be a vehicle for instituting the required reforms, this does not mean they have to solely come about via the lobbying and campaigning of affiliated unions within the structures of that political party. That said, a particular political party will be needed to bring forward a programme of legislation in order to enact these proposals for workplace democracy. Currently, such matters remain as reserved business although the Unite union has become the first major union to call for these matters to be devolved to the Scottish Parliament.²⁷ This follows 'the First Minister and the STUC shar[ing] the view that as a priority the UK government should agree to the full devolution of powers over the minimum wage, trade union and employment law, health and safety law and equalities legislation and further devolution of powers over social security'.²⁸

It is in this context of changes in the political landscape that some cracks are opening up in the neo-liberal hegemony that says there should be no restrictions on the right of managers to manage. In addition to those mentioned regarding Corbyn and McDonnell, this means there are openings to *advance* an agenda – and this is the first necessary stage to being able to *enact* an agenda. Thus, under the heading 'Working in partnership' in its 2015 general election manifesto, the SNP favoured some form of tripartism and enhanced 'union participation' by encouraging collective bargaining and increasing employee representation on company boards.²⁹ And while the SNP has made good on some of its tripartist intentions³⁰

²⁷ Unite Scotland (2015) 'Unite calls for devolution of employment law to tackle Tory trade union attacks', 12 May.

²⁸ STUC (2015) 'First Minister and the STUC agree on transfer of powers - New Memorandum of Understanding between partners following outcome of UK election' press release, 13 May.

²⁹ SNP (2015) *Stronger for Scotland – manifesto 2015*, p17. Available at: <http://votesnp.com/docs/manifesto.pdf>

³⁰ See, for example, the third Memorandum of Understanding between the Scottish Government and STUC of 13 May 2015. It is also worth noting the response of SNP MSP and Cabinet Secretary for Finance, Constitution and Economy, John Swinney, to a question in the Scottish Parliament from SNP MSP Maureen Watt on 29 October 2013 about the Ineos Grangemouth dispute: 'Maureen Watt asked about worker representation on the board. Companies' attitudes and perspectives are enhanced by a breadth of participation in their boards, especially employee representation. That is an important issue to consider as we try

in the form of establishing the *Fair Work Convention* via the *Working Together Review*, what is lacking here is a commitment to enact these policies by providing a statutory underpinning for their extensive coverage and to give them extensive powers. For example, among the tasks of the *Fair Work Convention* is to ‘provide independent advice to the Scottish Government ... [to] potential extension to collective and sectoral bargaining in Scotland’.³¹ In other words, if the strategy is to persuade and cajole employers through voluntary means, it will not get very far. But at least the issue is now on the mainstream political agenda in Scotland and with the memory of the Ineos dispute still relatively fresh in the memory, it can be recalled that in an actual case the existence of a works council at Grangemouth – established on the initiative of the company and with a limited remit – was not an impediment to the company. This is because it was not independent and had no statutory powers. Moreover, Nicola Sturgeon’s recently pronounced desire that Scotland should aim to emulate the ‘Rhineland capitalism’³² of post-war Germany, where both economic growth and social equality were fairly successfully pursued, means that she can be legitimately questioned about what she is prepared to do to deliver upon two of the hallmarks of ‘Rhineland capitalism’, namely, co-determination and sectoral wage bargaining. Moreover, the passage of the *Scotland Bill* through Westminster still provides for the opportunity to insert clauses to allow the devolution of reserved employment matters to Scotland (given the precedent set by the already agreed devolution of the administration of Employment Tribunals to Scotland in the Bill).

And, on a raft of other measures, the SNP Scottish Government could be persuaded through argument and compulsion to take a small number of steps towards beginning underpinning the basis for realising some of the proposals. For example, the legislation to create staff and representatives to sit on the senates or governing bodies of universities in Scotland (through the *Higher Education Governance (Scotland) Bill*) could be used as a precedent for worker directors in other organisations in the public sector. In the care home/residential care sector, where the government is effectively the financier of services, it could effectively compel the providers to become members of a sectoral forum for bargaining over terms and conditions with the unions of care workers. In the further education college sector, the same is true in regard of colleges all joining a national bargaining forum which the Scottish Government has asked that they do (voluntarily). With the Scottish Agricultural Wages Board, the SNP Scottish Government could also compel the board to go further than just set a minimum terms and conditions.³³ On procurement, blacklisting could be more forcefully dealt with by a quicker

to build the best possible climate for industrial relations in Scotland’s economy’. Memorandum available at http://www.stuc.org.uk/files/Document%20download/Memorandum%20of%20Understanding/375794_SGand_STUC_Memo_WEB.pdf

³¹ Scottish Government (2015) ‘Scotland: a fair work nation’, press release, 17 April.

³² See *Herald* 11 June 2015. She also uses the term ‘inclusive capitalism’ to convey the same concept. See also Wahl, P. (2004) ‘The End of ‘Rhineland Capitalism’: Germany at the Crossroads’ *Red Pepper*, January, available at <http://www.redpepper.org.uk/The-End-of-Rhineland-Capitalism/>

³³ See Unite Scotland (2015) ‘Scottish Agricultural Wages Board – Scottish Government Consultation’, [http://www.unitetheunion.org/uploaded/documents/0000046-SAWB%20Consultation%202015%20\(1\)11-23168.pdf](http://www.unitetheunion.org/uploaded/documents/0000046-SAWB%20Consultation%202015%20(1)11-23168.pdf)

and longer term ban on being able to tender for contracts whilst those using ‘umbrella’ practices could also be barred.³⁴

There is a particular role for the STUC and the newly enlarged SNP Trade Union Group to influence the SNP Scottish Government into taking such steps. Such a relatively more favourable situation in Scotland compared to the rest of Britain might then help advance the TUC’s case for workers’ representatives on company boards.³⁵ But there is also a role for particular Labour politicians like Neil Findlay MSP. He could, for example, take up where former Labour MP and chair of the Unite Parliamentary Group, Jim Sheridan, left off. In 2014, Sheridan propagated the idea of worker directors based upon his commissioned interviews with participants in Sweden as a result of looking for solutions to prevent another Grangemouth-type situation.³⁶ In looking at the Swedish example, Sheridan showed that statutory underpinning to any scheme was vital.

Conclusion

The Tories’ intention to further weaken union with the *Trade Union Bill* emphasises the importance of the moving towards attaining the eight proposals. But in any case, the need for them far preceded the Bill. The proposals put forward are radical, representing a considerable challenge to the existing order (and to capital and its representatives especially). Each requires state intervention against capital and statutory support and enforcement. But in another way, they are not particularly radical for much of what has been proposed existed before the advent of Thatcherism in 1979³⁷ but it also still exists in countries like Germany and Scandinavia. In other words, they are to return to a social democratic mode of society of the type that Labour used to support (and may yet again under Corbyn) and which the SNP claims to support (but does not in fact do so). And, most unions have achievement of socialism in their rule book/constitution so the proposals are well within this objective, either as an ends in themselves or as a means to an end (namely, capacity building to achieve socialism).

Next steps

The next steps to be taken in this project are – through collective discussion and debate with unions and organisation of the labour movement - to advance a coherent and radical set of detailed proposals. For example, what are the pros and cons of the German and Swedish

³⁴ See, for example, STUC *et al.* (2015) ‘Civil society priorities for procurement in Scotland: a strong, healthy and just society, living within climate limits - our updated ‘10 Asks’ for new regulations and guidance’ http://www.unison-scotland.org.uk/publicworks/Procurement-10asks-regs+guidance_Apr2015.pdf

³⁵ TUC (2013) *Workers on Board: the case for workers’ voice in corporate governance*, September.

³⁶ Sheridan, J. (2014) *Securing a decent deal for workers: employee representatives on boards*, CLASS Thinkpiece, September. Available at:

http://classonline.org.uk/docs/2014_Decent_deal_for_workers_-_Jim_Sheridan_MP.pdf

Sheridan also wrote pieces in the *Morning Star* (2 December 2013, 8 September 2014) to disseminate the ideas contained in the CLASS paper.

³⁷ For example, there were worker directors in the Post Office and British Steel.

systems and which of their particular components would we wish to see implemented in Scotland and Britain? Alternatively, what thresholds (if any) should be proposed for eligibility for workers exercising their workplace rights? And, which of the proposals outlined are potentially compatible or incompatible, self-reinforcing, competitive or conflictual?