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CHAPTER 20

PUBLIC POLICY AND EMPLOYEE PARTICIPATION

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‘A conversation between a cat and a mouse is not a conversation.’
Anonymous

20.1 INTRODUCTION

Employee participation is frequently seen as a private issue for organizations and their employees. Employers that believe it is in their self-interest to provide vehicles for employee participation will do so; others will not. If organizations with employee participation have a competitive advantage, the invisible hand of competitive markets will push others to adopt similar policies. Similarly, competitive pressures will drive out participation programs that are not cost effective. But as this Handbook reveals, employee participation involves much more than employee contributions to business decision-making; rather, individual control over daily working conditions, workplace consultation on employment policies, and collective bargaining over compensation are all part of employee participation. Employee participation efforts therefore reach far beyond competitiveness and profitability to also shape the psychological and economic well-being of individuals, the physical and emotional health of a community’s families, and the quality of a country’s democracy.

In other words, employee participation programs can generate positive externalities with benefits for more than the corporate bottom line; similarly, the lack or repression of various forms of employee participation can cause harm through negative externalities that spillover into families, communities, and nations. When seen in this light, it becomes clear that employee participation is more than a private affair. Rather, employee participation raises important issues for public policy through governmental regulation of the employment relationship. In fact, the government of any country plays a critical role in determining the nature of that country’s employment relations system by shaping the economic, political, social, and legal contexts for the employment relationship. The diversity of employment relations systems across countries

can, to a certain extent, be explained by variations in the degree, method, and content of government regulation (Van Waarden 1995: 110). Many of these elements ultimately pertain to forms of employee participation. This chapter therefore discusses the rationales for public policy interventions in the domain of employee participation and describes various policies that policymakers in Europe, the United States, and elsewhere are using or can use to promote forms of employee participation that benefit not only organizations, but also workers and their families and communities.

20.2 REGULATING THE EMPLOYMENT RELATIONSHIP

The rationale for government regulation of any market-based activity is rooted in both the objectives and operation of that activity. For employment-related issues, then, differing views on government intervention depend on beliefs about the goals of the employment relationship and how the employment relationship works. These differing views can be captured by four key models—the egoist, unitarist, pluralist, and critical employment relationships—which are distinguished by their assumptions about employment relationship objectives, the compatibility of these objectives across agents, and the structural context in which these objectives are pursued (Budd and Bhavé forthcoming). A quick review of these four models serves as an essential foundation for considering public policies on employee participation (see Table 20.1).

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The objectives of the employment relationship can be summarized as efficiency, equity, and voice (Budd 2004). Efficiency captures diverse issues pertaining to productivity and competitiveness, equity includes various conceptions of fairness, and voice is a shorthand for participation in decision-making. In the egoist model, efficiency is paramount. Employers and employees pursue their self-interest in competitive labor markets which, by one of the key results

of neoclassical economic analysis, maximizes efficiency. Labor is seen as simply a commodity pursuing income while equity and voice are conveniently conceptualized in market-based terms: voluntary transactions are equitable because they are not coerced; voice occurs through individual choice of what transactions to engage in. These narrow views of equity and voice leave little room for government regulation to target anything but market failures that reduce efficiency. And a wide embrace of competitive markets means that market failures are rare. And even then the case for government intervention is only made if regulation is doing less harm than good. So there is a minimal role for government intervention in the egoist employment relationship; neoclassical economists and other devotees of the liberal market model largely oppose work-related public policies (Reynolds 1996; Troy 1999). In the literature on comparative regulatory approaches to employment relations (Crouch 1982; Gospel and Palmer 1993; Van Waarden 1995), this is seen as a market or liberal individualism approach that emphasizes the state's role in protecting property rights, economic exchange, and individual contracts in a freely operating and (supposedly) competitive market system.

The unitarist model rejects the narrow conception of labor as a commodity and instead largely embraces a psychological conception of the human agent. As such, equity and voice are tied to individual perceptions of fairness, justice, and input into decision-making, especially in the form of distributive and procedural justice (Folger and Cropanzano 1998). The other key feature of the unitarist model is the assumption that the interests of employers and employees can always be aligned with the correct human resource management policies (Bacon 2003; Fox 1974; Lewin 2001). Efficiency is very important in the unitarist model, but because of universally-shared employer-employee interests, efficiency, equity, and voice support each other. For this reason, employer-promulgated human resource management practices are key. In an

ideal unitarist state, government regulations are largely unnecessary, but if some employers are misinformed or misguided, then there can be a role for public policies to encourage cooperative rather than competitive relations between employers and employees, and in the extreme, to prevent destructive competition that might come from ignorant, short-sighted, rogue employers.

The pluralist model of the employment relationship further enriches the conception of employees by also seeing them as human beings with rights in a democratic society. As such, equity goes beyond perceptions of individual fairness to include minimum standards such as living wages that all human beings should be entitled to; voice goes beyond narrow task-related input to include industrial democracy—the right of human beings to widely participate in informed decision-making (Budd 2004). Moreover, the nature of employment relationship conflict is more nuanced: employers and employees are assumed to have a mix of shared and conflicting interests (Clegg 1975; Fox 1974). With this, efficiency, equity, and voice should be balanced (Budd 2004). Human resource management policies are therefore important in promoting shared interests such as an employer’s financial viability, but because of inherent conflicts of interests, for example, between profits and wages, it is unwise to rely solely on employer self-interest to look out for workers’ interests (Kaufman 1997). The pluralist industrial relations model also assumes that because of market imperfections, employers have greater bargaining power than individual employees so unlike in the egoist model, competitive markets do not serve as a check on abusive employers.

Putting all of these assumptions together, then, yields an essential role for government policies to create minimum labor standards and social safety nets while also promoting unionization in order to balance efficiency, equity, and voice (Befort and Budd 2007; Budd, Gomez, and Meltz 2004). In practice, this pluralist approach is typically pursued in one of two

ways and such states are characterized as either liberal collectivist (or liberal pluralist) or corporatist (Crouch 1982; Gospel and Palmer 1993; Van Waarden 1995). The former approach involves creating basic legal frameworks within which employees and employers and their respective collective bodies can balance their legitimate and potentially conflicting interests by negotiating individual and collective agreements. More interventionist state approaches involve various forms of corporatism. Neo-corporatism, for example, (also referred to as ‘bargained corporatism’ or ‘societal corporatism’) is characterized by active state involvement in employment relations above and beyond creating a legal framework for balancing competing interests to also include consultation with trade unions and employers and other mechanisms for involving these actors in economic and social policy-making (Van Waarden 1995: 110). Neo-corporatism has its basis on social philosophy (such as Catholicism or social democracy) which to varying degrees emphasize harmony and the identity of interest of interdependent functional social groups.

The critical approach sees employee equity and voice as paramount and as having a fundamental clash with employers’ profit-maximizing objectives. Moreover, this inherent conflict of interests is embedded in a broad context of socio-political conflict between competing groups (Kelly, 1998). The Marxist perspective within this critical view assumes that employer-employee conflict is one element of unequal socio-political power relations between the capitalist and working classes (Hyman 1975, 2006), the feminist perspective emphasizes unequal power relations between men and women (Amott and Matthaei 1996; Gottfried 2006), and the critical race perspective centers on conflict, segregation, and control along racial lines (Amott and Matthaei 1996; Lustig 2004). Unlike in the egoist employment relationship, the labor market is not seen as a neutral forum for matching self-interested workers with self-interested firms, but

instead is viewed as a socially-based instrument of power and control (Hyman 1975). Human resource management practices are not seen as methods for aligning employer-employee interests, but as disguised rhetoric that perpetuates capital's dominance (Legge 1995). As a result, government regulation is needed to protect employees. But unlike the pluralist view in which government regulation can balance efficiency, equity, and voice because employer-employee conflict is confined to the employment relationship, the role of government regulation in the critical model is ultimately insufficient to advance workers' interests, and in many cases is viewed as another tool that the stronger group uses to perpetuate its dominance. Poole's (1986) state corporatism in which the functional interests of social groups are suppressed, subordinated, or incorporated into the political system fits within this perspective.

This framework allows for different conceptualizations of state action. The egoist and unitarist perspectives typically see states as promoters of the public interest, especially with respect to economic prosperity. The pluralist perspective is consistent with a pluralist political theory in which state action balances the political power of competing interest groups. The critical perspective largely sees the state as reflecting the socio-political power of the dominant interest group. Each of these models of state action can be important for thinking about where public policies on employee participation come from.

20.3 RATIONALES FOR PUBLIC POLICIES ON EMPLOYEE PARTICIPATION

The chapters in this Handbook present a number of different forms of employee participation. With respect to public policies, it is instructive to group these diverse forms into four categories along the lines of a combination of the typologies of Befort and Budd (2007) and Dundon et al. (2004):

1. Employee Involvement and Financial Participation

2. Individual Self-Determination
3. Information and Consultation
4. Countervailing Collective Power.

As shown in Table 20.2, these forms of employee participation in organizations differ along two dimensions—whether they promote employer-employee cooperation or employee rights, and whether participation is individual or collective.

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In this section, we describe possible arguments that can be used to justify public policies to regulate or promote each type of employee participation program. In each case, the egoist or laissez-faire liberal market model stands in opposition to public policy intervention on the basis that markets are generally competitive (so regulation is welfare-reducing), that the appropriate definitions of equity and voice are market-based (so there isn't a need for regulation to promote non-economic goals), and that individual freedom is paramount (so regulation is an unwarranted violation of property rights). This perspective provides an important foil for the rationales developed below. In all of this, it is critical for the reader to recognize that these differing perspectives are rooted in differing models of how the employment relationship works and varied conceptions of efficiency, equity, and voice as described in the previous section. We start by discussing individual forms of employee participation and then move to collective forms.

20.3.1 Employee Involvement and Financial Participation

The first dimension of employee participation consists of human resource management efforts to improve efficiency and economic performance by providing opportunities or incentives for workers to be actively involved in deciding how to carry out their daily job tasks and in sharing their employers' financial risks and rewards. Such participation can take many forms:

employee suggestion programs, quality circles, self-directed work teams for involving employees in process-improvement decisions; pay-for-performance, gainsharing, and employee stock ownership programs for involving employees in the financial side. These forms of employee participation are focused on improving information flows from employees to management, aligning employees interests with the goals and objectives of management, improving operations-related decision making, and are thus meant to improve coordination and motivation and ultimately productivity and organizational performance. As a consequence, many would object to the need for, and wisdom of, government supports. Organizations that find that such forms of participation enhance performance to a degree sufficient to offset any additional costs will adopt these participatory mechanisms; organizations that do not, will not. The invisible hand of the free market is the preferred guide.

Levine (1995), however, argues that there are market failures that undermine the adoption of these participatory mechanisms. In particular, it is difficult for just a few employers to adopt an employee participation strategy if suppliers are oriented toward a different production model, unemployment is high, wage differentials are high, and just cause policies are rare. Each of these scenarios reduces the competitive advantage of a participatory firm so firms acting alone have trouble adopting employee participation schemes. Public policies can help solve this coordination failure and promote a broad-based movement to employee participation which would have benefits for all (Levine 1995). The unitarist model also relies on employers understanding the mutual benefits of progressive human resource management policies so another rationale for government supports or mandates of employee participation is the promotion of mutually-beneficial human resources practices when employers do not fully appreciate their benefits. Similar arguments can be made for financial participation as it relates to

promoting the competitiveness of a country's companies. Moreover, financial participation may be used to promote a wider distribution of wealth (Pendleton and Poutsma 2004).

20.3.2 Individual Self-Determination

The most basic dimension of employee participation is individual self-determination which involves making decisions about one's own work. Industrial and organizational psychologists frequently describe this as autonomy: 'substantial freedom, independence, and discretion to the individual in scheduling the work and in determining the procedures to be used in carrying it out' (Hackman and Oldham 1980: 79). This can include prioritizing one's own tasks, troubleshooting problems, evaluating the quality of one's own work, having input into scheduling one's work time, the authority to refuse unsafe work, and the ability to freely voice concerns and complaints.

There are several rationales for public policy interventions to support the individual self-determination form of employee participation. The most general rationale is to promote the healthy, psychological development of adult human beings. Self-determination can be argued to be a basic or fundamental human need; its opposite (being controlled) contradicts what it means to be healthy adult and undermines our psychological well-being and development (Argyris 1959; Ryan and Deci 2002). The sociological giants Karl Marx, Emile Durkheim, and Max Weber similarly emphasized the loss of human dignity that accompanies excessive workplace control (Hodson 2001). Other arguments for legal supports for self-determination rest on the promotion of physical health (in the case of refusals of unsafe work), families (in the case of control over working time), and political discourse (in the case of free speech). In sum, a key feature of modern employment is the sacrificing of some autonomy in return for pay, but the effects on individual and society are too corrosive to allow all autonomy to be sacrificed; these

negative externalities provide the basis for government policies to support individual self-determination for workers (Befort and Budd 2007).

20.3.3 Information and Consultation

This category includes collective employee rights to obtain information from the employer, to be consulted by the employer and to voice concerns and suggestions. These rights may be mainly related to operational business decisions in the workplace as well as the more strategic decision at organizational or corporate level. Workplace information and consultation include varied forms of collective voice that involve exchanges of information and views between employers and employees on employment-related issues that stop short of formal co-determination or bargaining. This might include employee representatives on a corporation's board of directors or workplace committees like works councils—'permanent elected bodies of workforce representatives (or occasionally joint committees with employers representatives), set-up on the basis of law or collective agreements with the overall task of promoting cooperation within the enterprise for the benefit of the enterprise itself and employees by creating and maintaining good and stable employment conditions, increasing welfare and security of employees and their understanding of enterprise operations, finance and competitiveness' (Carley et al. 2005: 7). Typically, works councils must be allowed to express their views through a consultation process before managerial actions are taken.

In the unitarist model, public policies to promote information exchange and consultation are seen as beneficial because they can help employers and employees see that cooperative rather than competitive relations are better for all concerned. In the pluralist and critical models, there are instrumental and non-instrumental rationales for government intervention that promotes employee consultation. Consultative participatory mechanisms serve as training grounds for

political democracies by creating citizens who value participation (Pateman 1970) and respect diverse viewpoints (Estlund 2003). A second instrumental reason is that these forms of collective participation can be critical for implementing and enforcing legislated labor standards such as working time regulations, safety standards, and non-discrimination principles. In fact, transparency and self-regulation are increasingly seen as the preferred methods for enforcement of diverse government regulations, but relying on information disclosure and self-monitoring by employers is largely ineffective for enforcing workplace laws without strong supports for employees that are at least partially independent of their employers (Rogers and Streeck 1995; Weil et al. 2006). With the right legal supports, workplace-centered committees can provide the needed monitoring mechanism to enhance enforcement of diverse government regulations, while also helping to tailor these regulations to the needs of particular workplaces (Weil 2005; Rogers 2006). A third instrumental reason for public policy to promote consultation mechanisms is that employers typically have private information that make it difficult for employees to make informed decisions about important life events. For example, in the absence of regulatory requirements, employers may hide information about impending layoffs from employees, but mandatory consultation can help employees receive information and act accordingly.

The non-instrumental rationale for employee consultation parallels the support of democracy in the political arena: the inherent belief in the value of self-rule because an essential part of being human and being free is being able to effect one's own destiny (Adams 1991). In sum, instrumental and non-instrumental aspects of employee consultation posit that such forms of employee participation ultimately support the health of a country's populace and democracy. As such, these arguments are frequently characterized as calls for industrial democracy (Derber 1970). Adherents of this view see an important role for public policy interventions to promote

industrial democracy: industrial democracy is not typically produced naturally in the autocratic employment relationship, and autocratic policies have negative externalities through their harmful effects on democracy, so there is a productive role for state action to promote industrial democracy.

20.3.4 Countervailing Collective Power

The fourth and final dimension of employee participation in organizations seeks to promote employee rights through collective participatory structures. Fundamentally, these initiatives promote the collective power of employees as a counterweight to the power of corporations. There are two primary forms of this aspect of employee participation—co-determination and collective bargaining.

Co-determination means the sharing of decision-making rights between management and workforce as well as veto-power for workforce representatives in the company's decision-making process. In practice, co-determination rights are generally granted by legislation to works councils. Such legislation typically also gives works councils information and consultation rights, but the information and consultation aspects of works councils do not touch upon the employers' ultimate power and authority to make business decisions. Co-determination goes beyond consultation and is included here as a mechanism for countervailing power because the veto aspects of co-determination are intended to redress the power balance between employers and unorganized workforces.

The other common employee participation method for redressing this power imbalance involves participation in the determination of wages and working conditions through union representation and collective bargaining. Collective bargaining around the world takes many forms, from decentralized negotiations for just a few workers to centralized bargaining that

ultimately covers workers in an entire sector, or from producing skeletal agreements that outline minimum conditions to lengthy contracts that spell out terms and conditions in great detail and prohibit any deviations. But the function is always the same: to give workers a powerful collective voice to obtain a larger share of the economic pie for workers and promote the respectful treatment of workers.

In the egoist model described earlier, co-determination and collective bargaining are largely seen as bad because they interfere with free markets while also limiting and restricting the unilateral prerogative of management and thereby causing economic inefficiencies. In fact, works councils and unions are seen as labor market monopolies that can abuse their monopoly power by opportunistically exploiting weak employers, distinguishing too sharply between insiders and outsiders, harming workers not represented, lobbying to capture rents, or even violating individual rights (Freeman and Rogers 1993: 26). In the unitarist model, co-determination and collective bargaining are unnecessary because employers will take care of their employees. Information-sharing and consultation might promote cooperation, but the additional co-determination or bargaining rights are seen as adversarial and unnecessary since, by assumption, employers and employees have shared interests.

In the pluralist model, in contrast, co-determination and collective bargaining are seen as essential checks and balances against excessive corporate power (recall the key pluralist assumptions of the existence of at least some conflicts of interest and of unequal bargaining power in imperfect labor markets). Works councils with veto rights and labor unions therefore can help correct market failures that undermine worker welfare. And by giving workers a strong voice in the workplace that is independent of management, works councils and unions can also be seen as key supporters of industrial democracy. For both of these reasons, then, subscribers to

the pluralist model of the employment relationship argue that government regulations should promote strong works councils and unions and foster collective bargaining (Budd 2004, 2005). Certain types of collective bargaining, for example multi-employer collective bargaining, can also be used by employers to improve their relative power position vis-à-vis a strong trade union (Zagelmeyer 2007). It should be noted, however, that some subscribers to the pluralist model see works councils as subject to manipulation by employers and therefore argue that true employee power and industrial democracy can only come from labor unions that have the power to strike and are independent of management (Harper 2001).

Views of works councils, labor unions, and the associated public policies in the critical model are more equivocal. The critical model is supportive of such initiatives to the extent that works councils can represent a welcome shift in the frontier of control in favor of labor while militant unions can protect workers against the abuses of capitalism. On the other hand, the critical approach also sees co-determination and collective bargaining as inadequate because they stabilize the capitalist system and fail to provide workers with full control of the labor process. In other words, co-determination and collective bargaining are ultimately seen as addressing the symptoms rather than causes of the root problems in the critical employment relationship; as such, participatory structures that leave the broader power structure intact are seen as insufficient. Government regulation of works councils and unions are further seen in a negative light to the extent that such regulations are seen as capitalist tools for capping worker discontent and power.

20.4 PUBLIC POLICIES IN PRACTICE

The previous section demonstrates how employee participation is not strictly a private affair. If one steps outside of the egoist liberal market model that dominates today's popular

discourse, there are various reasons why public policies can improve individual and aggregate welfare by regulating and promoting various forms of employee participation. As such, individual countries as well as transnational authorities like the European Union (EU) have enacted a variety of public policies pertaining to employee participation; where such policies are lacking, scholars and activists have crafted a number of proposals to fill this perceived void. This section outlines notable public policy approaches to regulating employee participation programs. The experience of Europe and the United States are described for each of the four types of employee participation programs as these two regions generally represent the two extremes. Notable public policies from some other countries are also used as examples where appropriate. Throughout this discussion it is essential to remember the rationales for government intervention in each category of employee participation (see Table 20.3).

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20.4.1 Employee Involvement and Financial Participation

Laws that promote employee involvement in day-to-day operational decision-making are rare, if not nonexistent. This is because employee involvement is widely seen as a private rather than public issue. The area of financial participation—profit-sharing, employee share ownership, and employee stock options—is somewhat different. Mexican labor law mandates profit sharing as companies are required to pay out 10 percent of their profits to their employees every year; Ecuador has a similar requirement for 15 percent profit sharing. U.S. and European public policies, in contrast, typically see the decision of whether to adopt financial forms of participation as private decision for each employer to make. But U.S. and European policies encourage companies to adopt participatory financial mechanisms and also establish the regulatory framework for such plans. For example, the U.S. tax code provides incentives for

firms to adopt 401(k) retirement plans and employee stock ownership plans and if a company chooses to implement such plans, there are nondiscrimination requirements that must be followed to enjoy the tax benefits.

Similarly, financial participation has been an increasingly important policy issue in the European Union and its member states for many years. At the EU level, there have been the two PEPPER (Promotion of Employee Participation in Profit and Enterprise Results) reports (1991 and 1996), a Commission Communication ('On a framework for the promotion of employee financial participation') in 2002 and further activities by the European Economic and Social Committee and the European Parliament (Pendleton and Poutsma 2004). As such, while financial participation is typically not mandated, European public policy is nevertheless a key influence on the nature and extent of financial participation in Europe (Uvalic, 1993; Vaughan-Whitehead et al., 1995; European Commission, 1996; Poutsma, 2001). The United Kingdom, for example, has a long tradition of financial participation and, as a result of legislation introduced since 1978 to promote employee share-ownership schemes, now has the highest incidence of share-based financial participation schemes in the EU. France has the highest incidence of profit-sharing, supported by mandatory regulations and promotional policies. Saving funds, which can be established unilaterally by employers or by agreement with union representatives, works councils or by a two-thirds majority of employees, are at the center of financial participation in French companies. Based on voluntary contributions from employees and matching contributions from employer, such plans ultimately either invest in a diversified fund or in the shares of the employer. Employee share ownership in France has also been boosted by recent legal changes, including a new requirement that profit-sharing and savings plan arrangements must be included

on the agenda of obligatory annual negotiations with employee representatives. Other national approaches to financial participation are described by Pendleton and Poutsma (2004).

European public policy approaches to financial participation also generally involve three alternative linkages with employee representation. One set of countries has mandated the involvement of employee representatives in financial participation. Both the Belgian and French governments have required that financial schemes be subject to agreement with employee representatives (though an employee ballot is an alternative in France). Recent French legislation also gives unions a seat on the boards of the funds which invest workers' deferred savings. A second set of countries argue that the implementation of financial participation schemes ought to be agreed between the social partners but do not specify how this should take place. Germany and the Netherlands are examples of this case. The third position is that of the British government, which believes that implementation should be left to companies and does not explicitly support social partner involvement and agreement (Pendleton and Poutsma 2004).

20.4.2 Individual Self-Determination

Public policy can support individual self-determination by empowering employees to express themselves, protect their privacy, control their work schedules, and refuse unsafe work. Only a few such policies exist in the United States. There is a general lack of free speech protections so workers can and are fired for expressing themselves and complaining (Befort and Budd 2007). U.S. public policy also allows employers to aggressively monitor their employees (Rosenberg 2005). The Occupational Safety and Health Act (OSHA) includes a right to know provision which gives workers the right to know about hazardous chemicals in their workplace, but more generally, the protections for refusing unsafe work are quite weak (Klaff 2005). The Family and Medical Leave Act (FMLA) gives workers the right to take 12 weeks of leave to care

for themselves or family members with serious health conditions; this weakly promotes control over one's work schedule because this leave is unpaid. Moreover, with the exception of a handful of state laws that generally focus only on nurses, employee control over working time to promote a healthier work-family balance is undermined by employers' legal authority to require mandatory overtime (Golden and Jorgensen 2002).

In Europe, there are stronger public policy supports for individual self-determination in the workplace. Laws in Belgium, France, Italy, Germany, Great Britain, and Spain protect permanent workers from being dismissed except for poor performance or economic necessity (Wheeler and Rojot 1992). This protects freedom of expression and other aspects of individual autonomy. With respect to privacy, the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, which has been ratified by all EU Member States, states that everyone has the right to respect for his private and family life, his home and his correspondence. This right was extended by case law in the European Court of Human Rights to 'professional or business activities'. The Charter of Fundamental Rights of the European Union signed in 2000 includes an equivalent provision. While these provisions are rather general, there are more specific provisions on the right to respect for privacy and to the protection of personal data, such as the European Parliament and Council Directive (95/46/EC) 'on the protection of individuals with regard to the processing of personal data and on the free movement of such data'. Among others the Directive states that personal data must be: processed fairly and lawfully; collected for specified, explicit and legitimate purposes, kept in a form which permits identification of data subjects for no longer than is necessary. The person concerned must be informed about the data processing and of the respective aim, and must have access to the data collected. In August 2001, the European Commission launched a first stage of consultation of the

social partners on the protection of workers' personal data (Delbar et al. 2003).

In addition to European legislation, there are national level laws on the protection of (i) privacy in general, (ii) personal data, and (iii) privacy in the workplace. Across EU countries, legislation relating to the protection of privacy in general includes provisions in constitutions or legal codes, and legislation. In the case of Belgium there are collective agreements with the force of law. Most national constitutions contain a general explicit or implicit right to protection of privacy/private life (for example, Austria, Belgium, Finland, Germany, Greece, Ireland, the Netherlands and Spain). In France a general privacy right is included in the Civil Code. In the UK there is specific legislation, the Human Rights Act. All countries have data protection legislation, either as the direct implementation of the EU Directive (95/46/EC) on the issue or pre-existing legislation which has been amended in the light of the Directive. This, however, rarely relates to data protection in the employment context, exceptions being Finland, France, Greece, and Portugal (Delbar et al. 2003).

Beyond the employment-related provisions of general or specific data protection legislation, at least some aspects of privacy at the workplace are governed by employment (or other) law in most countries (with some exceptions, such as Ireland). The French Labour Code prohibits restrictions of workers' rights and freedoms except where justified and proportionate. The Italian Workers' Statute regulates a number of privacy matters, while Portugal's new Labour Code provides for privacy in areas related to workers' personal lives. The specific issue of monitoring and video surveillance at the workplace is made subject to various conditions by legislation in countries such as Belgium (a national collective agreement), Denmark and France. In some countries, bodies of workplace representation or employee representatives have specific rights with respect to the introduction and/or use of equipment for monitoring employees'

performance and work. This may range from information and consultation rights in Belgium, Finland or Spain to co-determination in Austria, Germany, Luxembourg and the Netherlands. In Sweden, the co-determination rights of local unions include matters related to personal integrity (Delbar et al. 2003).

Individual self-determination among European workers is also supported by policies establishing working time flexibility and various opportunities for family-related leave that are part of the broader effort to promote work-life balance and gender-equity in Europe. At the EU level, the maternity Directive (92/85/EEC of 19 October 1992) and parental leave Directive (96/34/EC of 3 June 1996) stipulate employment protection and time-off for working parents. As the implementation of EU directives is left to individual countries, there is a large variety of mandated leaves—maternity leave, paternity leave, parental leave, and leave for urgent family reasons—that range from short to long periods of time and from unpaid to paid arrangements, that differ widely in terms of eligibility, administrative criteria (means-tested or other criteria such as number of children and/or previous employment) and administrative processes (calculation of amount of transfer). Nevertheless, legal provisions for parental leave across the EU countries are widespread (Math and Meilland 2004).

Family-friendly public policies are not typically seen as part of the domain of employee participation, but they do, in fact, promote the individual self-determination aspect of employee participation by increasing employees' abilities to control their work schedules in the face of family responsibilities. This is further illustrated by the working time flexibility of European family leave laws. Statutory parental leave may be divided into a number of separate blocks or staggered in most EU countries, apart from Ireland, Luxembourg and Greece. In Sweden, parental leave of 480 days, of which 60 are reserved for each of the parents, may be distributed

between the two parents and taken in blocks of as little as one hour until the child reaches the age of eight. Flexibility may also be achieved by permitting employees taking statutory leave to work part time, or by entitling parents to reduced working hours or a reorganized work schedule. In Austria, combining parental leave and part-time employment is a right for employees with at least three years' service in companies with a workforce of at least 21. Similar rights exist in Belgium, Denmark, Finland, France, the Netherlands, Norway, Portugal, Slovakia, Spain and Sweden. In Germany and the United Kingdom, employees are entitled to request specific work schedules (Math and Meilland 2004).

Occupational safety and health laws can also promote workplace self-determination. Under the Swedish Work Environment Act, employee-appointed safety delegates have the right to stop hazardous work (Klaff 2005). The British Employment Rights Act protects workers against reprisals for taking appropriate steps to protect themselves when the work is believed to pose a 'serious and imminent' danger. State-level legislation in Australia and provincial-level legislation in Canada also grant workers the right to refuse unsafe work.

20.4.3 Information and Consultation

In the European Union, public policies that support information and consultation rights are quite extensive with respect to both the structure of the consultative bodies and the issues covered. While the operational details vary across the countries of the EU, the primary mechanisms for workplace information and consultation are works council and board-level employee representation. In some countries, works councils might also have veto power over certain proposed changes to the employment relationship; this co-determination aspect of works councils goes beyond promoting cooperation and understanding and will be addressed in the next section. The concern in the present section is with the consultation and information-sharing

aspects of works councils and related bodies.

20.4.3.1 Works Councils in Europe

Government legislation on works councils can vary across the European Union. Rogers and Streeck (1995: 22ff.) distinguish different categories of regulation issues. The *creation of works councils* is usually not mandatory, but requires a certain level of initiative by the workforce or the union(s). Employers cannot restrict works council formation. As far as *election procedures* are concerned, most countries regulate the voting procedure, the nomination of union and non-union candidates, and the lengths of terms of service of councilors. In all countries, employers must bear the *costs of councils*. Legislation regulates the number of paid hours councilors can spend on works council work, employment protection, training of councilors, and the required office facilities. Works council services are without cost to employees. *Union-council relations* are usually a highly contested issues and includes, for example, union assistance of councils or councilors, the rights of union officials, obligations of councils to consult with external unions, the performance of union functions by council members, and the access of unions to council resources. While usually the law defines both as independent of each other, there are in most instances de facto close relations between works councils and trade unions.

Regulation differs perhaps most widely in terms of *legal rights and obligations* of works councils. Rights may be related to access to information, consultation (including rationalization and collective redundancy) and co-determination, i.e. joint decision-making with veto-power for the council on a range of human resource management issues (such as working hours, payment systems, health and safety, staff assessment and vocational training, etc.). Works councils have monitoring rights concerning the implementation of the labor laws, social security, employment

and health and safety regulations, as well as conditions of work establishment by agreements, customs or practice. Councils also have the rights to take (legal) action where the employer does not comply with the rules. The council may be legally obliged to preserve confidentiality, to observe industrial peace, and to co-operate with the employer in good faith (Rogers and Streeck 1993: 23; Salamon 2000: 400).

The establishment of works councils is, apart from Sweden, associated with minimum workforce-size thresholds, ranging from five employees in Austria and Germany to 100 in Belgium. A further issue is whether or not the establishment of a body of employee representation is automatic (as, for example, in Austria, France or the Netherlands) or must be activated by employees, trade unions or employers (as, for example, in Germany or Italy).

In continental European countries, works councils are established on the basis of legal regulation. In other countries, councils are established on the basis of collective agreements. In a number of further countries such as Ireland, the UK, Sweden and Finland there is neither legislation nor collective agreements. In the latter countries, trade unions are the primary channel of workplace representation.

As far as information rights are concerned, works councils in almost all countries are entitled to receive regular information from management as well as information on important matters arising. In terms of employment conditions, specific rights to information are often provided on matters such as recruitment, promotion, pay policy, health and safety, working time, equality, training and financial participation. Some countries use a catch-all requirement to inform on all matters likely to seriously affect employees' interests. By its nature, information on structural change in the business is less likely to be provided on a regular basis, being more dependent on events. In almost all cases, information is required on matters such as closures,

transfer of production, relocation, mergers, takeovers and the introduction of new technologies - especially where these are likely to lead to collective redundancies (Carley et al. 2005: 5ff.).

Consultation can generally be regarded as a right to be informed of planned measures in advance and to have an opportunity to express an opinion prior to implementation. The most common issues covered by consultation rights are: changes to the company's legal status; the removal, expansion or downsizing of all parts of the company installations; the introduction of new technologies; any change in staff structure (increase or decrease of the number of employees, lay-offs, subsidized short-time work; the annual budget for the company health and safety measures; the scheduling of overtime exceeding maximum working hours; redundancies and vocational training; the nomination of workplace and safety committee members (if any); and, more rarely, affirmative action for gender equality. In Italy, works councils are also responsible for supplementary negotiations on matters referred to at company-level bargaining by sectoral collective agreements (generally mandated to the trade unions), such as pay increments, union rights, variable parts of wages, etc. (Carley et al. 2005: 5ff.).

Moving from the national to the international or supranational level, there have been initiatives from within the European Union to strengthen, codify, and institutionalize employee participation in organizations that are operating across borders, and to harmonize regulations on employee representation. Initiatives to strengthen representation existed under directives relating to collective redundancies (1975), transfer of undertakings (1976) and the health and safety of workers (1989). Proposals have been made to harmonize policies across EU member states, for examples a proposal for worker directors within a two-tier board structure (5th directive, 1972), or the 1998 proposal for a company works councils (directive on national level information and consultation). In 1994 the EU adopted the European works councils directive which applies to

organizations with more than 1000 employees including at least 150 employees in operations in two or more member states and requires them to establish a European level works council (Salamon 2000: 377, 403).

20.4.3.2 Board-Level Representation in Europe

Board-level employee representation involves employee representatives who sit on the supervisory board, board of directors, or similar structures, in companies. These employee representatives are directly elected by the workforce, or appointed in some other way, and may be employees of the companies, officials of organizations representing those employees, or individuals considered to represent the employees' interests in some way. Board-level representation provides employee input into overall company strategic decision-making rather than focusing on information and consultation on day-to-day operational matters at the workplace. Although one may distinguish board-level representation from other forms of employee representation in the enterprise and from collective bargaining by trade unions, there are links to works councils and unions which in many cases are involved in board-level participation by having nomination or appointment rights, or in terms of board-level employee representatives' membership in trade unions (Schulten et al. 1998).

Legislation on employee representation on the board of directors (worker directors) exists in many European countries, although it has been restricted to the public sector in countries such as Greece and Ireland. In the Netherlands, employees can veto the appointment of board members (Salamon 2000: 393). The issue gained importance in Europe with the discussions around the European company statute. The proposal includes the requirement for management of organizations wishing to be regulated by EU law rather than national law to reach agreement the

workforce and the unions employee information and consultation, and, where applicable, board level participation of employees (Salamon 2000: 394).

Systems of board-level employee representation in different national industrial relations systems vary widely. In most EU countries, employee representatives are in the minority, and board-level participation is associated with the obtaining of information and understanding and the expression and exchange of opinions, views and arguments about an enterprise's strategy and direction. In a few cases, however, when employee representatives are equal in number to those of shareholders or other parties, issues of control, veto and real influence over company strategy—that is, co-determination—come into play (Schulten et al. 1998).

Across Europe, one may distinguish between three broadly defined systems of corporate governance for the types of company in which there is board-level representation of employees (Schulten et al. 1998):

- Dual systems. The performance of the management board is monitored and controlled by an additional institution, the supervisory board (for example, in Germany, the supervisory board can normally appoint and dismiss the management board and review its performance and is provided with financial and other information). The supervisory board is normally composed of representatives of the shareholders (and often of employees), while the management board is made up of managers employed by the company. Countries with board-level representation which fall into this broad category are Austria, Denmark, Germany, Greece, the Netherlands, and Portugal.
- Monistic or single-tier systems. In many countries there is a single institution at board level which is responsible for the management of the company, usually the 'board of directors'. This body is usually responsible for the control of the company, though there

is no formal distinction between supervisory and management functions. The board may contain members of the enterprise's management alongside members from outside, representing shareholders and sometimes other parties. Countries with board-level representation which may be characterized as having monistic systems of corporate governance are Ireland, Luxembourg, Spain and Sweden (Italy and the UK also fall into this category). As well as board of directors, such single-tier institutions may be called the 'administrative board' ('conseil d'administration'). It is noteworthy that the regulations governing monistic systems are quite diverse.

- Mixed systems. Of the countries with board-level representation, Finland and France have a combination of dual and monistic systems.

Legal regulation and practice is quite diverse regarding the selection of employee representatives to sit on the board. Elections among the workforce concerned is a basic method of selecting representatives, applying in Denmark, Finland, Germany (except for the parity co-determination system), Greece, Ireland, Norway, and Portugal. In Austria, it is the works council that appoints the board representatives. In France, works councils appoint (non-voting) board representatives in the private sector, while trade unions play a decisive role in the selection of board representatives in the public sector. In Sweden, it is the local branches of the trade unions which appoint the board representatives. In the Netherlands it is the supervisory board which co-opts its own members, with the works council being one of the bodies with nomination rights. With few variations and exceptions, employee representatives enjoy the same rights, responsibilities and obligations as other board members. In France, works council-appointed representatives have only a consultative role. However, they receive the same information as the other members of this authority. Since 1982, they now have the right to present lists of requests

for information and must receive a documented response. Elected board representatives in France have the same rights and obligations (confidentiality) as shareholders' representatives and representatives appointed 'due to their expertise'. In the Netherlands, all members of the supervisory board have equal rights but according to the law, members of the supervisory board are not allowed to act as representatives of particular interests. In Portugal, the law says nothing about the status of the employees' representatives and seems to leave it for the statutes of each public corporation to define. However, in practice, no employees' representatives have been appointed (Schulten et al. 1998).

In 2001, the EU adopted a statute and directive on the establishment of the European Company (or *Societas Europaea*, SE), offering member states to either adopt laws, laws, regulations and administrative provisions necessary, or to make sure that the social partners agree on equivalent provisions. As far as employee participation is concerned, management and workforce in each SE are required to agree on standards of information, consultation, and even board-level representation, with a set of back-up statutory 'standard rules' where no agreement is reached (Broughton 2002).

20.4.3.3 Consultation in the United States

The situation in the United States is very different than in Europe. Employee representation on corporate boards of directors is rare except in employee-owned companies. Employers do not need to meet with employee representatives about changes in wages, hours, and other terms and conditions of employment unless the workers are unionized (in which case the employer must bargain over these proposed changes). And even unions can only compel companies to share financial information in limited circumstances. More generally, U.S. labor law is fairly hostile towards nonunion representation for fear that such forms of employee

participation can be manipulated by managers in order to prevent the employees from unionizing (Moberly 2005). As such, U.S. public policy forces workers to choose between individual representation (backed up by the threat of quitting) and full-fledged unionization; there is very little middle ground for consultation with just a few exceptions.

One exception is the Worker Adjustment and Retraining Notification (WARN) Act which requires employers to provide employees with a 60-day advance notice of a plant closing or mass layoff. While not consultation per se, this advance notice allows workers to better plan and make decisions for their future which is consistent with the goals of industrial democracy. As a second U.S. exception, at least 13 states mandate health and safety committees which serve as participation vehicles for consultation on workplace safety policies (Finkin 2002). In nonunion workplaces, however, these committees need enhanced supports to be effective (Weil 1999). A third example occurs in the U.S. federal sector in which unions that represent at least 10 percent of a set of employees, but less than a majority, are entitled to consultation rights. These consultation rights, however, typically go unnoticed in U.S. industrial relations. As such, there are frequent calls for adopting European works councils in the United States (Befort 2004; Befort and Budd 2007; Fairris 1997; Weiler 1990). Similar calls have been made for Australia (Gollan, Markey, and Ross 2002).

20.4.4 Countervailing Collective Power

The fourth class of public policies that support employee participation seek to promote the collective power of employees as a counterweight to the power of corporations. These ultimate objective of these policies is not the promotion of employer-employee cooperation, it is a re-balancing of power to promote equitable outcomes and meaningful employee voice. This

objective is typically pursued through laws that support co-determination and/or collective bargaining through labor unions.

20.4.4.1 Co-determination

As described in the previous section on information and consultation rights, there are diverse policy supports for works councils across many European countries. The provisions already described pertaining to the size, formation, and administration of works councils applies here as well. But some countries endow works councils with more than just information and consultation rights. In particular, in several countries such as Austria, Germany, Italy and Sweden, the rights of employee representation bodies extend into co-determination associated with a right to veto management decisions. Co-determination rights refer to matters that are of material importance for employees and their working conditions, which relate to the activities of the enterprise, such as: substantial investments, changes in systems and methods of production, quality, product development, plans for expansion, reductions or restructuring. Decisions of this kind are submitted to the council for its opinion before any decision is made (Carley et al. 2005: 13ff.).

In Germany, the works council's co-determination rights cover participation in arrangements on health and safety at work, voluntary and obligatory co-determination issues (works rules, working time, , the formal adoption of a reconciliation of interests, a 'social plan' in restructuring as well as in deciding on the design of staff application forms, methods of appraisal and guidelines for personnel selection, in-service training and individual staff measures (engagement, grading and re-grading, transfer, dismissal) (Works Constitution Act §§87ff.). The right of co-determination is exercised through a works agreement and must be observed even in urgent cases.

Obligatory issues include matters connected with: works rules; working time in the establishment, including breaks, short-time working and overtime; the method of payment used for remuneration; the arrangement of general principles on annual holidays and the preparation of the holiday roster; the introduction and use of technical devices for monitoring employees' conduct and performance; accident prevention and health protection; the form, structure and administration of fringe benefits; the provision and withdrawal of company-owned housing; matters connected with remuneration arrangements in the establishment and principles and methods of remuneration; the fixing of performance-related rates of pay; and the principles underlying the company suggestions scheme for employees' suggestions for improvements . On these matters, the employer cannot take any action without the agreement of the works council (EMIRE without date).

20.4.4.2 Collective Bargaining

In continental Europe, collective bargaining is largely seen as a complement to works councils. In Germany, for example, industry-wide collective bargaining has traditionally established minimum standards for compensation while works councils address issues of working conditions within individual workplaces. This complementarity is reinforced by the fact that many works councilors are also union members. One of the most important legal supports for collective bargaining in Europe is the extension mechanism. Specifically, most European countries (important exceptions being the UK, Sweden and Norway) have legal provisions which may extend collective agreements to employers and employees not directly covered by collective negotiations. Traxler and Behrens (2002) distinguish three forms of extension mechanisms:

- i) extension in the narrow sense, which makes a collective agreement generally binding within its field of application (typically an industry) by explicitly binding all those

- employees and employers which are not members of the parties to the agreement;
- ii) enlargement, which provides for a collective agreement concluded elsewhere to apply in sectors or areas where no union and/or employers' association capable of collective bargaining exists; and
 - iii) functional equivalents, such as compulsory membership of the bargaining parties' organizations or legal provisions requiring government contractors to comply with the terms of a relevant collective agreement. These functional equivalents result in the phenomenon that all employees and firms in the respective area are covered by the terms and conditions without the formal extension of the agreement.

Various kinds of extension in the narrow sense apply to most western and central European countries, while enlargement procedures are found in Austria, Portugal and Spain. Functional equivalents can be found in six countries, though in three cases such provisions merely support other existing procedures. In Italy and Slovenia, extension mechanisms are exclusively based on functional equivalents and in Slovenia in particular, with companies' obligatory membership of chambers of commerce and industry, the impact on collective bargaining coverage is quite powerful. The extensions in the narrow sense vary according to whether extensions apply automatically, or whether bargaining parties or social partners need to request or apply for extension. Public authorities, such as ministries of labor, play a crucial role in initiating the extension of an agreement in France, Greece, Portugal and, to some extent, also in Slovakia. Another source of variation is the extent to which the provisions are extended, i.e. whether it is the entire agreement or specific sections (for example Ireland, Belgium, Denmark, Germany, Hungary). Usually the extension is performed by some form of public act, usually a decision, decree or order issued by the government authority in charge of labor matters. Some

countries have established minimum requirements for extension, most commonly minimum rates for coverage of the relevant agreement prior to extension (for example, Finland, Germany, Greece, Hungary, Ireland, the Netherlands and Spain) (Traxler and Behrens 2002).

Two interesting cases for public policy support for collective bargaining are France and the UK. France has a long tradition of legal support for collective bargaining in the form of several statutes (1919, 1936, 1946, 1950, 1971, and 1982). While the 1971 law supported multi-industry collective bargaining on, among others, vocational training, working conditions, and job security, the 1982 Act introduced compulsory annual collective bargaining on pay and working hours for unionized firms. In 2001, the number of issues covered by compulsory collective bargaining was extended to equal employment rights, sickness benefits, and saving schemes (Goetschy and Jobert 2004). The UK saw the introduction of a statutory trade union recognition procedure in 2000, through which unions can seek recognition from employers for collective bargaining purposes. The union recognition provisions of the Employment Relations Act 1999 provide that, where union and employer cannot agree on union recognition for collective bargaining purposes, the union may ask the tripartite Central Arbitration Committee (CAC) to decide the issue and to determine the scope of the bargaining unit (Hall 2000).

U.S. labor law emphasizes collective bargaining, not co-determination, as the route to create a balance of power in the American employment relationship. Specifically, the National Labor Relations Act (NLRA) makes it illegal to fire or otherwise discriminate against employees who try to form unions and also obligates companies to bargain in good faith with unions when they represent a majority of a defined set of workers. But union density in the private sector is less than 10 percent and union supporters point to many weaknesses in the NLRA framework: exclusive representation, majority support, the legality of permanent strike replacements,

restrictions on secondary boycotts, weak penalties and remedies when the law is broken, and the like (Compa 2004; Fantasia and Voss 2004; Summers 1998). As such, reform proposals are common (Befort and Budd 2007; Craver 1993; Stone 2004). Moreover, approximately 25 percent of U.S. employees are not covered by a protective statute because some private-sector occupations and industries are excluded from the NLRA and because a number of states do not have any protective legislation (General Accounting Office 2002).

20.5 CONCLUSION

The rationale for public policy intervention in the employment relationship lies in the intersection of the objectives of the employment relationship and how this relationship works. If the objectives are seen as narrowly-defined with a particular emphasis on economic efficiency and if the employment relationship is seen as working largely through voluntary transactions among well-informed, self-interested actors in perfectly-competitively markets, then there is little to no role for government regulation. From this egoist perspective, employee participation and other important aspects of work are private affairs best left to individual choice and the invisible hand of the market. But if the objectives are more broadly defined to include things like equity and voice for employees and if the employment relationship is seen as a complex affair in which workers with human needs and possibly democratic rights are not the equals of their employers because of imperfect markets and other real-world complexities, then there is the potential for public policies to improve the employment relationship. From a unitarist perspective, there can therefore be a role for government policies to encourage cooperative relations between employers and employees while also preventing short-sighted employers from starting a vicious cycle of destructive competition. From a pluralist perspective, employee participation is important for workers and their communities, and therefore should be promoted

and protected by state action even when employers might be opposed. From a critical perspective, public policies to democratize the workplace through employee participation are also championed, but are ultimately seen as imperfect solutions when power imbalances between employers and employees are deeply embedded in the socio-political system.

The public policies on the four dimension of employee participation observed in Europe, the United States, and elsewhere reflect these different perspectives. In the United States, the underlying laissez-faire approach is rooted in an egoist perspective that sees employee participation as a private affair. As such, there are few public policies in the United States that promote or protect employee participation. The main exception to this is the National Labor Relations Act that encourages unionization and collective bargaining; the passage of this act in 1935 reflects the dominance of the pluralist school of thought during the Great Depression. However, the failure to redress the act's weaknesses are rooted in the dominance of the egoist and unitarist perspectives since the 1950s.

In Europe, employee participation is seen more as a public issue than in the United States. At the EU level and in the member states, there is a multiplicity of legal regulation and public policies concerning all dimensions of participation in organizations except for employee involvement. This generally reflects a pluralist approach to the employment relationship, albeit with different variants across countries and eras. This is not to say that there are not any exceptions—Thatcherite public policy in the UK, for example, is a notable deviation from the pluralist approach—but by and large, European governments have an inclination for establishing legal frameworks that are supportive of various forms of employee participation (excluding employee involvement), with (occasionally) more or less strong neo-corporatist or statist elements.

Beyond the promotion of a deeper understanding of public policies on employee participation, thinking about policy rationales can also help scholars and practitioners analyze the elements and operations of various employee participation schemes. Identifying problem areas that might need legal supports reveals where there is the potential for employee participation mechanisms to be one-sided or manipulated. More specifically, Greenfield and Pleasure (1993: 194) argue that true employee voice requires legitimacy (employee consent to engage in voice or be represented by others) and power (the ability to influence outcomes or decisions); otherwise, ‘without power and legitimacy, any individual or collective worker statement can be labeled voice, even if that voice is, in reality, muffled or inaccurate, stifled or distorted.’ If efficiency is the sole objective, then legitimacy and power are presumably not a concern. But for participation mechanisms intended to deliver richer forms of employee voice, legitimacy and power are essential concerns. Voice mechanisms that lack legitimacy and power likely need government support to provide these critical dimensions.

In sum, employee participation is not necessarily a private affair, and it is not simply about improving economic performance. Understanding various rationales for state intervention in employee participation programs is necessary for a deep knowledge of the diverse forms of employee participation and their widespread effects on organizations, employees, families, and communities. Scholars, practitioners, and policymakers should not overlook the public nature of employee participation programs.

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Table 20.1: Models of the Employment Relationship and Government Regulation

Model	Employment Relationship Objectives	Compatibility of Objectives	Structural Context	View of Government Regulation
Egoist	Efficiency is paramount. Equity is market transactions being fair. Voice is the ability to freely initiate and quit transactions.	Employers and employees have self-interest. Exchanges are consummated when self-interests align.	Competitive labor markets. Labor as a commodity.	Minimal. Fix market failures only when regulation does not do more harm than good.
Unitarist	Efficiency is very important. Equity and voice are necessary for psychological satisfaction and individual productivity.	Employers and employees have shared interests.	Imperfect labor markets. Labor as psychological beings.	Low. Promote cooperation and prevent destructive competition.
Pluralist	Efficiency, equity, and voice are all important. Equity and voice are necessary for human dignity and freedom.	Employers and employees have some shared interests and some conflicting interests.	Imperfect labor markets. Labor as economic and psychological beings and democratic citizens.	Essential. Establish safety nets and equalize bargaining power to balance efficiency, equity, and voice.
Critical	Equity and voice are paramount. Equity and voice are necessary for human dignity and freedom.	Employers and employees have inherent conflicts of interest.	Employment inequalities embedded in pervasive inequalities throughout society. Labor as economic and psychological beings and democratic citizens.	Mixed. Important for protecting employees. Inadequate because of systemic imbalances inherent in capitalism.

Table 20.2: Employee Participation in Organizations

		<u>Objective</u>	
		Promoting Cooperation	Promoting Employee Rights
<u>Structure</u>	Individual	Employee Involvement and Financial Participation	Individual Self-Determination
	Collective	Information and Consultation	Countervailing Collective Power

Table 20.3: Public Policies on Employee Participation: Rationales and Examples

Form of Participation	Possible Rationales for Public Policy Support	Examples of Existing Policies
Employee Involvement and Financial Participation	Correcting market failures that undermine organizational performance. Promoting employer-employee cooperation.	Europe: Promotion and regulation of various stock ownership and profit sharing plans. U.S.: Tax incentives and non-discrimination requirements for employee stock ownership plans.
Individual Self-Determination	Promoting psychological well-being plus healthy families and communities.	Europe: Unjust dismissal and privacy protections. Mandated family leave. U.S.: Unpaid family leave
Information and Consultation	Providing information for decision-making about life events and promoting transparency and self-regulation. Promoting employer-employee cooperation.	Europe: Mandated information-sharing and consultation with works councils. U.S.: Advance notice of mass layoffs.
Countervailing Collective Power	Correcting market imperfections that undermine workers' psychological, economic, and political welfare.	Europe: Co-determination rights for works councils. Provisions for extending collective bargaining agreements. U.S. NLRA protection of unionization attempts and requirements for good faith bargaining.