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The changing nature of collective employment relations

Changing
nature of
collective
employment

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Abstract

Purpose – The purpose of this paper is to survey developments in four aspects of collective employment relations (ER) since the mid-1960s: collective representation and organisation; collective bargaining coverage and structure; the collective bargaining agenda; and joint consultation arrangements. It considers the reasons underlying change.

Design/methodology/approach – A range of published sources are drawn on, including quantitative, survey based and qualitative, case-study and other evidence.

Findings – The landscape of collective ER has changed markedly over the past half century. Membership of trade unions has fallen from around half of the workforce to one-quarter. Employers who mainly conducted collective bargaining through employers' associations now negotiate, if at all, on a firm-by-firm basis. Collective bargaining coverage has sharply declined and now only extends to a minority of the private sector workforce. The bargaining agenda has been hollowed out. Joint consultation arrangements too are less widespread than they were around 1980.

Originality/value – The paper contends that change has been driven by three underlying processes. "Marketization" of collective ER entailing a shift from an industrial or occupational to an enterprise frame of reference. The rise of "micro-corporatism", reflecting increased emphasis on the common interests of collective actors within an enterprise frame. Finally, the voluntarism, underpinning Britain's collective ER became more "asymmetric", with employers' preferences increasingly predominant.

Keywords Employment relations, Collective bargaining, Trade unions, Employers' associations, Joint consultation, Workplace surveys

Paper type Research paper

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1. Introduction

In "Workshop Wage Determination" (Lerner *et al.*, 1969), a Manchester research team led by Shirley Lerner reported the fruits of a major, SSRC-funded field-based study on the evolution of collective wage setting half a century ago. They portrayed a world of national, industry-wide multi-employer agreements which shaped wage structures in most large, and determined them in many smaller, firms. Their focus was on the relationship between increasingly widespread site (and company level) wage agreements in larger firms and these national agreements in three main manufacturing sectors. Echoing the Donovan Commission's call, they recommended the formalisation of site-level collective bargaining, although within a continuing multi-employer framework. At the time, the wages and major conditions of three-quarters of the workforce were determined by collective bargaining. Joint consultation arrangements were viewed as a less developed form of joint regulation within firms, likely to be superseded by collective bargaining (McCarthy, 1966). In total, 40 years later, reviewing the changes revealed by a quarter century of Workplace Employment Relations Surveys (WERS), Brown *et al.* (2009, p. 22) observed that "Possibly the most remarkable feature of the period after 1980 in Britain was the collapse of collectivism as the main way of regulating employment". By the late 2000s, multi-employer bargaining had all but disappeared from Britain's private sector,



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and the proportion of the workforce covered by collective bargaining had fallen to just one-third. Joint consultation, as a result of a 2002 EU Directive, had come to be seen as perhaps the best chance of reviving collective employment relations (ER) (Hall and Purcell, 2012). What happened and why?

Mainly focusing on the private sector, this paper surveys developments in four aspects of collective ER since the mid-1960s: collective representation and organisation; collective bargaining coverage and structure; the collective bargaining agenda; and joint consultation arrangements. A fifth, collective conflict, is addressed by John Kelly elsewhere in this volume. It contends that the changes of the past half century have been driven by three underlying processes. First, “marketization” of collective ER entailing a shift from an industrial or occupational to an enterprise frame of reference (Marginson *et al.*, 2014). Second, the rise of “micro-corporatism” reflecting increased emphasis on the common interests of collective actors within an enterprise frame. Third, change in the nature of the voluntarism which had underpinned Britain’s ER for the first three-quarters of the twentieth century. As a result of legislative and public policy, but also economic, changes from 1980 onwards voluntarism became more “asymmetric”, as employers rediscovered the managerial prerogative (Purcell, 1991). Management decisions became increasingly predominant in determining the existence (or not), and the trajectory, of collective ER. Against this context attempts at “legally-induced” (Gall, 2012) or “legislatively-prompted” (Hall and Purcell, 2012) voluntarism, intended to effect some redress in this imbalance, produced meagre outcomes.

2. Collective organisation and representation

The decline in trade union membership in recent decades is well established. In the mid-1960s, union density (union membership as a percentage of the workforce) stood at 43 per cent, rising to a peak of 56 per cent in 1979. Thereafter it declined, steeply, to 38 per cent in 1990, 29 per cent in 2000 and, less so, to stand at 25 per cent in 2014 (Waddington, 2003; Labour Force Survey, 2014). Union recognition followed a similar trajectory. At workplace level, successive WERS reported that unions were recognised at 64 per cent of workplaces with 25 or more employees in 1980, declining to 53 per cent in 1990 and 41 per cent in 1998. Thereafter the decline first slowed and then stabilised, with the equivalent figure standing at 38 and 37 per cent in 2004 and 2011, respectively (Brown *et al.*, 2009, pp. 93-94; WERS dataset for 2011). Non-union representation arrangements did little to fill the growing representation gap: estimated to be present in 10 per cent of workplaces in both 1980 and 1990, the figure increased somewhat to 14 per cent in 1998 but did not increase further in either 2004 or 2011 (Brown *et al.*, 2009; van Wanrooy *et al.*, 2013).

Over the period the organisational demography of trade unionism also changed markedly, with the number of trade unions recorded by the Certification Officer declining from 454 in 1979, to 218 in 2000 and 162 in 2014. The decline was mainly due to mergers between unions, resulting in a concentration of membership in a few large unions. Of the TUC’s 54 affiliates in 2014 (halved from 112 in 1979), 14 unions accounted for 85 per cent of total membership. These mergers wrought sharp changes in the demographic contours of trade unionism, from a mix of craft-, occupational- and industrially-specific unions towards conglomerates (Waddington, 1995). Arguably, as a result, unions rely even more on self-sustaining representation and organisation within the workplace and enterprise now than they did 50 years ago, consistent with the shift towards an enterprise frame for collective ER.

Turning to employers' associations, although data are sparse membership decline has been nowhere near that experienced by trade unions. During the 1990s and 2000s there was reported slow decline in the employment density of CBI member companies (i.e. the proportion of employment accounted for) although figures are only available for 2003 (42 per cent) and 2009 (35 per cent) (Traxler and Behrens, 2004; Carley, 2010). The organisational demography of employers has, however, also changed considerably. The Certification Officer reports a noticeable decline in numbers of employers' associations from 375 in 1983, to 230 in 1994, 178 in 2003 and 97 in 2014. Mergers have accounted for some of this decline, with for example separate regional and district associations in the engineering industry combining into a single, unified national entity, the Engineering Employers' Federation. More prominent have been dissolutions of employers' associations, often linked to the termination of national, multi-employer agreements, as in the case of the Federation of Clearing Banks in the late 1980s. The growing role of individual companies as interlocutors in collective negotiations with trade unions, reflecting "marketization", led to an explosion in the number of bargaining units in the private sector over the course of the 1980s (Brown and Walsh, 1991).

The main legislative intervention which might have bolstered union representation proved to be a dog that whimpered rather than barked: the 2000 statutory union recognition procedure (SRP). The SRP was intended as mechanism of last resort, whose presence would stimulate voluntary union recognition by otherwise recalcitrant employers (Smith and Morton, 2001; Gall, 2012). This objective was seemingly fulfilled by initial experience, with the number of recognition agreements climbing immediately before and after its introduction. But the effect proved temporary and by the mid-2000s the number of new recognition agreements was not greatly above that prevailing ten years earlier (Gall, 2012). In short, the SRP seemingly stimulated a once-off shock amongst a minority of non-union employers who were relatively agnostic towards unions. In the medium-term, the effects of this instance of legislatively prompted voluntarism have been decidedly limited (Bogg, 2012).

Overall, the growing representation gap indicates that employers have become less willing to engage with collective representation arrangements and unions less able to pressure them to do so, consistent with asymmetric voluntarism. Where employers do engage, either union organising capacity or employer preference means that union-based representation arrangements continue to predominate.

3. Collective bargaining coverage and structure

The most striking feature in the contraction of collective bargaining has been the demise of multi-employer bargaining in favour of single-employer bargaining or, in many previously covered companies, unilateral management regulation. In this way, collective bargaining has been marketized since negotiations under single-employer structures are more likely to take account of firms' economic circumstances and business requirements than multi-employer ones. Conversely, occupational or industrial wage solidarity (the "common rule") is likely to be less prominent under single- than multi-employer bargaining structures. Three main developments are apparent: decentralisation of the level of bargaining towards site and company levels, already underway in the mid-1960s and accelerated by the shift from multi- to single-employer bargaining arrangements; contraction of collective bargaining coverage (i.e. the proportion of the workforce covered), from the early 1980s onwards; and consolidation of bargaining arrangements at site and company level, with the move to "single table" arrangements from the late 1980s onwards.

At first, during the 1960s and into the 1970, the process of decentralisation towards bargaining at site and company level took place within and alongside national, multi-employer agreements (Lerner *et al.*, 1969), prompting the Donovan Commission's (1968) well-known diagnosis of two systems of collective ER, the formal one through multi-employer agreements and the informal one at the site level. Ten years later, the comprehensive 1977-1978 Warwick Workplace Survey of manufacturing workplaces employing 50 or more employees found a more formalised two-tier system of wage determination in place. Four out of every five workplaces, covering three-quarters of the manual workforce, continued to follow multi-employer agreements, but their nature had changed from setting standard to minimum wage rates. Actual wage rates were determined in workplace or company negotiations in the majority of workplaces (Brown, 1981). It was during the 1980s and 1990s, against a changed political and legislative context (addressed in the next section), that employers increasingly turned their backs altogether on multi-employer bargaining. The termination of the English and Welsh, and Scottish agreements covering the banks in 1987 and, subsequently, the national engineering agreement in 1990, following a 1989 dispute over working time, were particular landmarks.

Contraction of collective bargaining coverage is closely linked to the demise of multi-employer bargaining, since with their abolition many (smaller) employers where unions were not well organised fell out of coverage altogether. Table I shows private sector developments since the mid-1980s; equivalent data are not available for earlier years although across the economy collective bargaining coverage was broadly stable at between 75 and 80 per cent during the 1960s and 1970s (Brown *et al.*, 2003). Coverage fell steadily from 1984 to 2004, before plateauing between 2004 and 2011.

In 1984, multi-employer agreements were the principal locus of wage setting for almost one in two private sector workplaces, a proportion which had declined sharply to one in six by 1998 (plateauing thereafter), indicating how the eclipse of these agreements contributed to the contraction in coverage (Brown *et al.*, 2009, p. 34). As a result the coverage of collective bargaining has progressively converged on the figure for union density. Brown and Nash (2008) calculate that in the mid-1970s collective bargaining coverage was 35 percentage points higher than union density, a gap which had declined to around 5 percentage points by the mid-2000s.

Less attention has been paid to the third development, the consolidation of enterprise (site or company) -level bargaining structures. The growth of single table bargaining arrangements in place of previous multiple bargaining units within individual sites (or companies), usually associated with multi-unionism, reflects the rise of micro-corporatism under single-employer bargaining. Data on the incidence of single table bargaining is sparse until the 1990s: the Warwick Workplace Survey (1977-1978) and the first three WERS (1980, 1984, 1990) were designed on the assumption that there

Table I.
Private sector
workplaces and
employees covered
by collective
bargaining,
1984-2011

	1984	1990	1998	2004	2011
% of employees	52	42	32	25	25
% of workplaces	47	38	24	16	12

Note: Workplaces with 25 or more employees, and at least some employees with pay determined by collective bargaining

Source: WERS surveys, updated from Brown *et al.* (2009) table 2.2

were separate bargaining arrangements for manual and non-manual workers, respectively. Even so fragmentation of arrangements within these two main workforce groups was found: for example, WERS 1980 reported that one-fifth of workplaces recognising trade unions had more than one bargaining unit for manual workers (Daniel and Millward, 1983). An indication of the rarity of single table arrangements comes from a 1979 CBI survey, which found that only 22 or 1250 manufacturing establishments had common pay bargaining arrangements for manual and non-manual workers. On average the establishments surveyed had 2.7 bargaining units (Marginson and Sisson, 1989).

The picture started to change during the 1980s, with the rise of single union deals at new sites (Bassett, 1986) and, in response, moves to consolidate arrangements at existing sites with fragmented structures (Marginson and Sisson, 1989). The 1998 WERS, the first not built on the assumption of different arrangements for manual and non-manual workers, found that 43 per cent of workplaces recognising trade unions recognised a single union, a figure which had risen to 50 per cent by 2004 and 54 per cent in 2011. The great majority of these will have a single bargaining unit. In 2004, four out of every ten of these were found to result from a formal single union agreement. Amongst workplaces recognising more than one union, six out of ten reported a single table bargaining arrangement in 2004 and also in 2011, up from five out of ten in 1998 (Kersley *et al.*, 2006, p. 123). Taking all sites recognising one or more unions together, the proportion with a single bargaining table is probably around eight out of ten, a marked shift from the time of the 1979 CBI survey.

Summing up, whilst decentralisation of collective bargaining and the shift from multi-employer bargaining signalled the marketization of collective bargaining around firm-specific structures and a shift towards unilateral management regulation as coverage declined, consolidation of bargaining arrangements within firms was conducive to the growth of micro-corporatism.

3.1. Accounting for the contraction of collective bargaining

Four main possible factors which might account for the remarkable decline in collective bargaining are addressed by Brown *et al.*, 2009. The first are changes in the structure of the economy including the decline of manufacturing (and of heavy industry in particular) and the rise of private services, reduction in the average size of workplaces, the shift from blue- to white-collar employment, and the rise in part-time and temporary employment and corresponding decline in full-time employment on open-ended contracts. Each of these changes is often held to make it more difficult for unions to organise workers, and thereby secure recognition from employers and engage in collective bargaining. Analysing successive WERS from 1984 to 2004, Brown *et al.* (2009) find, however, that only about 10 per cent of the change (decline) in the incidence of collective bargaining is accounted for by such structural changes.

Second, changed employer behaviour might flow from shifts in ownership, which have seen privatisation of previously state-owned companies in the economy's trading sector and the share of private sector employer accounted for by foreign-owned companies steadily increase since 1980 at least (Edwards and Walsh, 2009). Analysis of successive WERS suggests that both contributed to collective bargaining decline, but in different ways. Privatisation had a clear effect in exacerbating the decline of collective bargaining, whereas there seems to be no overall impact of foreign ownership (Brown *et al.*, 2009). Edwards and Walsh (2009), in a companion analysis, identify a distinct preference for single- as compared to multi-employer bargaining arrangements

amongst foreign-owned workplaces (as compared to domestically owned ones) in the earlier, 1984 and 1990, surveys. This difference disappears by the later, 1998 and 2004, surveys (by which time multi-employer bargaining has itself become marginal). This suggests that the impact of foreign ownership was indirect: by staying outside multi-employer bargaining and favouring single-employer arrangements, foreign-owned companies prompted imitation amongst their (larger) British-owned counterparts which contributed to the demise of the former and hence contraction of collective bargaining coverage.

The third factor is intensification of competitive pressures in product markets as a result of domestic deregulation and their progressive opening up to international competition. A central element of the regulatory capacity of multi-employer agreements is establishing a common floor for wages and major conditions within national product markets. This no longer holds in internationalised product markets, hence undermining their role. Although emphasised by Brown *et al.* (2009), the evidence from their analysis which supports the impact of product market change, and the effects of international competition in particular, as a major source of decline is patchy and inconclusive (Marginson, 2012). This is also a factor which is not unique to the UK amongst advanced industrialised countries. In several of these, elsewhere in western Europe, multi-employer agreements have nonetheless persisted and there has been little change in the level of collective bargaining coverage since the mid-1980s, strongly suggesting that other considerations play a prominent role.

Fourth, legal intervention and changes in public policy towards collective bargaining, particularly under successive Conservative governments during the 1980s and into the 1990s, had a corrosive impact on collective bargaining. The series of legislative measures enacted in the years between 1979 and 1997 constrained the ability of unions to organise and take industrial action, with consequences for collective bargaining; and indirectly promoted enterprise- or establishment-based collective bargaining through measures delegitimising wider industrial and occupational solidarities, highlighted by the prohibition of secondary industrial action (Dickens and Hall, 2003). Multi-employer bargaining arrangements in parts of the private sector were undermined by the rescinding the Fair Wages Resolution, which since 1891 had required private providers of public service contracts to uphold wage clauses in relevant (sector or occupational) agreements. Further, by abandoning collective bargaining as the preferred model for collective ER in the public sector, and embracing more individualised practices such as performance-related pay, the state sent a signal to private sector employers to follow suit. Whilst these developments have been widely invoked in accounting for the decline revealed by successive WERS, quantifying the nature and extent of their impact in a manner analogous to that of the first three factors is not feasible. Reviewing available indirect evidence, Brown *et al.* (2009) judge that public policy and legal intervention probably played a second-order role.

Moreover, an important corollary of voluntarism was that the legal framework in Britain had always provided less support to multi-employer bargaining than was the case elsewhere in western Europe (Sisson, 1987). Agreements are not legally enforceable as they are in most other countries, neither do they include the binding peace clauses found in several. Legal provisions to extend the coverage of multi-employer agreements to all employers in an industry or district, found in a number of countries, have not featured. In short, multi-employer bargaining in Britain was more vulnerable to the changing preferences of employers, than in other west European countries. Under multi-employer bargaining, employer solidarity in Britain had been

weaker than in other west European countries (Sisson, 1987). Unlike their counterparts elsewhere, when opening up scope for bargaining at site and company levels large employers in Britain ultimately chose to break away from their industry agreements rather than doing so within a negotiated, industry-wide framework. Trade unions, for their part, reflecting a tradition of workplace organisation and confident in their capacity to engage in local negotiations, opted not to strongly defend national, multi-employer agreements (Marginson, 2012).

4. The changing agenda of collective bargaining

Reviewing the evolution of the substantive nature of collective negotiations, two features stand out. First, the bargaining agenda has been hollowed out, with negotiation over managerial relations largely disappearing and those over market relations narrowing towards a focus on pay. Second, in places where negotiation still embraces a wider agenda, since the 1980s there has been a shift from a productivity to a competition-orientation consistent with the growth of micro-corporatism. Both developments have been driven forward by management, reflecting the changed, asymmetric nature of voluntarism.

In 1990, WERS reported that negotiation over aspects of managerial relations remained quite common. For example, negotiation on staffing levels and on redeployment was found in over half of workplaces where unions were recognised, a figure which had not changed greatly since the 1984 survey. By 1998, this proportion had fallen steeply to around 10 per cent (Cully *et al.*, 1999). More recent comparison is not possible (although the 1998 picture seems unlikely to have been reversed) since the later WERS focused on negotiation over major terms and conditions, i.e. market relations. Here too, the evidence points to hollowing out of the agenda. The 2011 survey revealed a “significant diminution in the scope of negotiations” since 2004 (van Wanrooy *et al.*, 2013, p. 80). Whereas in 2004 pay, hours and holidays were all subject to negotiation in the majority of workplaces recognising unions, by 2011 this only applied to pay.

The rise of productivity bargaining from the mid-1960s onwards, associated with the spread of site- and company-level negotiations and epitomised by the agreements at the Fawley refinery (Flanders, 1964), signalled a shift towards a more firm-oriented negotiating agenda (see also Lerner *et al.*, 1969). Formalisation of site- and company-level bargaining, recommended by the Donovan Commission (1968), was intended to underpin the further spread of productivity-oriented bargaining. The essence of such negotiations was implementation of productivity-enhancing changes in specific working practices in exchange for extra payment. In other words, pay was the general equivalent against which other issues were traded-off in order to secure productivity gains. As distinct from traditional, adversarial negotiations in which the outcome is distributive – one party’s gain is the other party’s loss, under productivity bargaining the negotiating process is integrative and both parties gain (Walton and McKersie, 1965).

By the early 1990s a further shift was apparent, towards competitiveness bargaining involving increased emphasis on common interests between (local) management (in large companies) and the workforce (micro-corporatism). There was growing focus amongst management on securing greater flexibility in employment practices as well as ways of working, and, from the perspective of unions, on maintaining employment. In the tougher economic and market conditions prevailing in the 1980s and 1990s, employers became more reluctant to negotiate additional wage payments to secure improvements in productivity (or flexibility). “Normal” (cost of living related) wage settlements increasingly also included flexibility enhancing changes to practices, including working time

arrangements, which partially offset the cost impact of settlements (Arrowsmith and Sisson, 1999). Employment and employability also emerged as negotiating objectives for unions, as under the spread of so-called pacts for employment and competitiveness (PECs) negotiated in larger companies in manufacturing, the utilities, transportation and banking and finance from the mid-1990 onwards (Sisson and Artiles, 2000). Typically, flexibility enhancing and cost reducing measures were agreed in exchange for commitments by companies to continue production or undertake new investment, and thereby maintain employment, at particular sites. PECs were particularly prominent amongst the local operations of internationally integrated multinational companies in manufacturing, induced by threats to relocate operations elsewhere on competitiveness grounds (Marginson and Sisson, 2002). As compared to productivity bargaining, negotiations over employment and competitiveness are also integrative in nature, although the positive sum nature of the outcomes is less clear cut for the workforce. Against improved employment security, cost reducing measures have for instance included reductions in pay premia (bonus, shift and overtime) and other pecuniary benefits.

The extent to which this development signalled the emergence of employment as a second general equivalent, alongside or instead of pay, against which other issues are traded in negotiations (Léonard, 2001), is underlined by recent experience in the early phase of the crisis. In the context of the sharp downturn in demand, 2009 and 2010 saw crisis-induced agreements being negotiated amongst larger companies in manufacturing which featured pay freezes (in a few cases, pay cuts) and shortened working time arrangements, with the aim of maintaining employment and, from employers' perspective, retaining skills and experience (Carley and Marginson, 2011).

5. Joint consultation

Joint consultation was traditionally viewed as the poor relation of collective bargaining. Little attention was paid to it by the Donovan Commission (1968). At the time "[c]onsultation was almost completely overshadowed by collective bargaining in practice and in fashionable academic discourse" (Hall and Purcell, 2012, p. 15). Indeed, McCarthy (1966) contended that joint consultation would wither away as collective bargaining spread and extended its substantive scope. As the opposite has happened, with collective bargaining coverage (and union recognition) declining and its scope narrowing, have consultation arrangements become more widespread? Most recently, has the 2002 EU Directive providing for the establishment of consultation arrangements, implemented by the UK's 2005 Information and Consultation of Employees (ICE) Regulations had an impact on their incidence? This section also reviews the quality of consultation, and whether the new regulations have effected an improvement.

In terms of their incidence, earlier surveys found joint consultation committees (JCCs) or arrangements to be not as marginal as their relative neglect might suggest. Reviewing survey evidence from 1950, MacInnes (1985) concluded that although a minority phenomenon they were far from uncommon in manufacturing and that their incidence had been surprisingly stable. The 1977-1978 Warwick Workplace Survey reported that JCCs were present in 42 per cent of manufacturing workplaces (with 50+ employees). Union representatives predominated, although non-union representatives were found in one in five of these. The late 1970s and early 1980s represented a high water mark, as Table II shows. Whereas 34 per cent of workplaces with 25 or more employees had JCCs in 1980 and 1984, this had declined to 24 per cent by 2004 before stabilising between 2004 and 2011.

JCCs have not spread to fill the gap left by the shrinking coverage of collective bargaining and union recognition, and the associated representation gap has grown. In 1998, 57 per cent of workplaces had some form of structure of employee representation (union based and/or a JCC), declining to 49 per cent in 2004 and stabilising at the same level in 2011 (Kersley *et al.*, 2006, p. 133, updated to 2011) (comparable figures for earlier WERS are not available). The composition of JCCs has, however, changed with non-union representatives found amongst the great majority in 2011 and union representatives being presented in only one in four (van Wanrooy *et al.*, 2013). The impact of statutory intervention, i.e. the 2005 ICE Regulations would appear to have been limited, at best to halting the decline of JCCs. Amongst organisations (which may cover more than one site) with 50 or more employees (the minimum size threshold covered by the regulations), the proportion of workplaces with JCCs was 14 per cent in 2004 and 13 per cent in 2011 (van Wanrooy *et al.*, 2013).

Turning to the quality of consultation, a major study undertaken in the early 1980s (Cressey *et al.*, 1985) based on a set of company case studies highlighted the poverty of the consultation agenda prompting the assessment that “consultation was a marginal and unstable exercise” (MacInnes, 1985, p. 103). During the 1990s and 2000s the focus of research shifted onto the operation of rapidly spreading direct forms of employee communication and involvement (e.g. Marchington *et al.*, 1992) and away from the practice of joint consultation *per se*. More recently, Hall and Purcell (2012) present a somewhat less bleak picture of the quality of consultation than that portrayed by Cressey *et al.* a quarter of a century previously. Drawing on the findings of 21, longitudinal company case studies Hall and Purcell differentiate a minority of “active consulters” from a larger group of “communicators”. Amongst the “active consulters” strategic, business decisions which impact on the workforce were subject to consultation, and the consultation involved tended to take place before the event, whereas amongst the “communicators” employees tended to be informed rather than consulted about such major decisions or if consultation did take place, it was after the decision had been made. Practice amongst the first group was broadly consistent with the provisions of the ICE Regulations, whereas that amongst the second fell short of its requirements. The key factor distinguishing the two groups of companies was management policy towards consultation: pro-active amongst “active consulters” and minimalist amongst “communicators”.

The ICE Regulations provide a benchmark against which to assess the quality of consultation: consultation should occur on the employment situation in the organisation and its probable development; decisions likely to lead to substantial changes in work organisation or contractual relations (including restructurings) should be subject to consultation with a view to reaching agreement; and information must be provided in good time, and be such as to enable employee representatives to undertake an adequate study of the issue and prepare for consultation (Hall and Purcell, 2012). Against this context, recent WERS have identified three managerial approaches to consultation:

	1980	1984	1990	1998	2004	2011
% of workplaces	34	34	29	28	24	25

Note: Workplaces with 25 or more employees

Source: WERS surveys, updated from Willman *et al.* (2009) table 5.3

Table II.
Workplaces with
an on-site joint
consultative
committee, 1980-2011

seeking solutions with employee representatives to problems; seeking representatives' feedback on a range of options; and seeking feedback on a preferred option (i.e. where management has already taken a decision). The first and second are broadly consistent with the regulations' consultation requirements, whereas the third falls short. Findings indicate that management would seem to have become more, not less, likely to fall short of the Regulations' requirements since they came into force. Amongst organisations employing 50 + employees, the proportion of managers appraising their organisation's approach to consultation as seeking feedback on a preferred option rose from 15 per cent in 2004 to 22 per cent in 2011. Employee representatives' assessment of managerial approach suggested a more marked change, with the proportion citing this approach increasing from 9 per cent to 28 per cent between the two surveys (Adam *et al.*, 2014). One possibility is that the change reflects the impact of the recession, with organisations feeling the need to act more speedily. The reverse, however, seems to be the case. Management was more likely to have sought solutions to problems or feedback on a range of options amongst workplaces severely affected by the recession than in those where it had less impact (Adam *et al.*, 2014).

Overall, joint consultation arrangements have not spread to occupy the gap left as collective bargaining coverage and union recognition have declined. If anything, over the 20 years up until the mid-2000s their incidence at workplace level also declined. Legislative intervention in the shape of the ICE Regulations looks to have halted, but not reversed, this trend. Furthermore, there is little sign that the regulations have prompted a qualitative shift in managerial approach towards joint consultation. As with the SRP, legislatively prompted voluntarism to promote joint consultation has not had a marked effect.

6. Conclusion

The landscape of collective ER has changed markedly over the past half century. Membership of trade unions has fallen from around half of the workforce to one-quarter. Employers who mainly conducted collective bargaining through employers' associations now overwhelmingly negotiate on a firm-by-firm basis. Many that were part of multi-employer bargaining arrangements are no longer covered by collective bargaining at all. The state no longer promotes collective bargaining as the preferred model of collective ER in the public sector, with implications that carry over into the private sector. Collective bargaining coverage has sharply declined and now only extends to a minority of the private sector workforce. The bargaining agenda has been hollowed out. Joint consultation arrangements too are less widespread than they were around 1980. The combined result is that the representation gap has, since the mid-1980s, steadily grown.

Marketization of collective bargaining initially occurred through the opening up of negotiations at workplace and company levels but was subsequently extended with the shift from multi- to single-employer bargaining arrangements. This transformed collective agreements from public goods with quasi-inclusive regulatory coverage of industrial and occupational workforces to private goods with exclusive coverage amongst those enterprises where unions are still recognised. The shift to a primarily enterprise framework for collective negotiations also included consolidation of previously fragmented into unified or single table bargaining arrangements within firms. In turn, these structural changes underpinned a shift in the bargaining agenda towards firm-specific conditions and away from an industrial or occupational frame. Micro-corporatism, where common interests come more to the fore, increasingly

took root. Initially this took the form of productivity bargaining. From the 1990s onwards, where the bargaining agenda was not narrowed towards a focus on pay and major conditions, it became increasingly oriented towards competitiveness and an emphasis on enhanced flexibility and cost reduction. Changes were traded-off in negotiations against commitments on employment and not only improvements in pay.

Changes in both the structure and agenda of collective bargaining have been primarily pushed forward by employers who, against a changed legislative and public policy context, have reasserted the managerial prerogative. Since 1980, employers have accumulated growing discretion in deciding whether or not to recognise and unions, engage in collective bargaining and if so determine its scope. The voluntarism which continues to provide an important underpinning for collective ER, albeit one increasingly overlain by legal intervention, has become more asymmetric. The outcomes of legal interventions intended to redress the imbalance by introducing new workforce rights to collective representation, namely the Statutory Trade Union Recognition Procedure and the ICE Regulations, have been decidedly limited.

Critiques of the framing of both these interventions (Hall and Purcell, 2012; Smith and Morton, 2001), which pursued a “light touch” or minimalist approach, however contend that this has contributed to their lack of effectiveness. Hall and Purcell, for example, identify a number of ways in which the regulations on consultation could be revised to promote wider diffusion of joint consultative arrangements, such as providing a formal role for recognised trade unions to trigger their initiation, and more effective practice where arrangements are in place, including provision of an ultimately binding statutory fall-back model and requiring so-called “pre-existing agreements” to meet minimum standards for information provision and consultation (see pp. 172-178). More broadly, Bogg (2012) contends that the “representational” conception of collective bargaining underlying the Statutory Recognition Procedure translates into bargaining outcomes which are a private good confined to union members within a given enterprise or establishment. He contrasts this with the “regulatory” conception of collective bargaining which continues to prevail in continental western Europe, where outcomes are a public good available to the workforce across a given sector, occupation or region. One way in which public policy could be mobilised to promote a shift (back) towards a regulatory conception of collective bargaining in Britain is through requiring private providers of public services to comply with a fair wage clause. Legislative and public policy intervention as a tool to redress the imbalance in voluntarism which characterises today’s collective ER need not necessarily be doomed to fail.

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