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COLLECTIVE BARGAINING METHODS AND PRACTICES: WHY THE SYSTEM OF PLANT AND COMPANY BARGAINING IN THE USA HAS BEEN VIRTUALLY ABSENT IN MOST EUROPEAN INDUSTRIAL RELATIONS SYSTEMS*

* Seminar paper prepared for: *Industrial Relations: Theory and Comparative Systems*, The London School of Economics and Political Science (University of London), London, 1978.

OUTLINE

Collective bargaining is a process of decision-making. Its overriding purpose is the negotiation of an agreed set of rules to govern the substantive and procedural terms of the employment relationship, as well as the relationship between the bargaining parties themselves. Although institutional arrangements in the industrialised countries of the Western world are quite diverse, there are enough common elements of fundamental importance to allow a comparative examination of contemporary methods and practices of collective bargaining.

This paper is an attempt to determine and analyse the different dimensions of bargaining in the U.S. via contrasting with practice in Europe; and to try to account for the differences by exploring some of the historical explanations regarding industrialisation patterns.

The emergence of collective bargaining (C.B.) is intimately linked to the economic and social consequences of that complex constellation of technological, demographic, ideological and other developments which took place in the last century. C.B. is carried on within a framework of law, custom and institutional structure that varies considerably from one country to another. It could be argued that the framework of bargaining in the USA has certain characteristics that sharply distinguish it from that of most other industrial democracies:

I. DECENTRALIZATION

Perhaps the most significant characteristic of the American C.B. system is that it is highly decentralised. There are approximately 150,000 separate union-management agreements in force in the U.S. A majority of union members work under contracts negotiated by their union with a single employer or for a single plant. Only 40 percent of employee covered by collective agreements involve multi-employer negotiations and the great bulk of these negotiations are confined to single metropolitan areas[1].

In Europe, on the other hand, the great majority of union members are covered by general agreements nogotiated for large groups of employees on a multiemployer basis. In Britain, for example, there are normally two separate tiers of bargaining arrangements, an industry-wide negotiation followed by bargaining at the plant level, in contrast to the single tier that is more typical in the U.S.[2].

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1. *D. C. Bok* and *J. T. Dunlop*, Labor and the American Community, 1970, page 208.

2. *J. F. Goodman*, «G. Britain: Toward the Social Contract», in *S. Barkin* (ed.), Worker Militancy and its Consequences, 1965-1975.

The prevelence of plant and company negotiations in the U.S. is a natural outgrowth of:

> the patterns of organisation among employers and unions;
> the great size of the country; and
> the highly competitive character of its economy.

National central negotiations are hardly feasible, since the AFLCIO has much less authority over its affiliates than the central confederations in most other industrial democracies (with the possible exception of the British TUC and the German DGB that have little authority to coordinate the collective bargaining policies of their member unions)[3]. The Labour Movement in America has remained markedly decentralised. In part, this can be the result of the lack ot a class sentiment strong enough to transcend the attachments of workers to their own separate crafts and occupations. In part, the absence of a strong federation reflected the predominance in the U.S. labour movement of bargaining rather than political action. In any event, the AFL was founded with the explicit understanding that the affiliated unions would retain their autonomy. Throughout its history, the federation had to rely, with mixed success, on persuassion and conciliation instead of exercising formal powers or sanctions. Even today the situation is not much changed. The AFL-CIO has acquired some power to investigate and suspend affiliates for corruption but it has little or no authority over the bargaining and strike policies of its members, nor is it able to control their membership requirements or political activities.

Managements also are less centralised in their decisions on labour relations issues. An outstanding characteristic of the industrial relations systems of Western Europe is the high degree of organisation and common action among employers in the private sector[4]. In this respect there is a substantial difference with employers in North America. Whereas in European countries, Germany being the principal example, the negotiation of collective agreements has, generally speaking, been regarded as a matter external to the firm, North American

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3. *J. Bergman* et al, «The Federal Republic of Germany», in *S. Barkin* (ed.), op. cit.

4. I.L.O., Collective Bargaining in Industrialised Market Economies, 1974.

enterprises have by large chosen to regard C.B. as an enterprise affair. The strong competitive element in American bussiness, reinforced by a long-standing national anti-trust policy, forms the background against which the predominance of individual enterprise bargaining in the U.S. needs to be appraised. By contrast, the sence of shared interests and solidarity among European employers (for example the BDA represents about 80 percent of all private enterprises organised in their industrial associations, which employ about 90 percent of all engaged in private industry)[5] and their willingness to submit to group regulation in trade matters may well help to explain their clear preference for association responsibility in labour-management relations.

II. EXCLUSIVE JURISDICTION

In the U.S., unlike most countries in Western Europe, one union serves as the sole representative for all the employees in a plant or other appropriate bargaining unit. This practice can be traced back to the tradition of conflict among the autonomous international unions. To restrain such conflict, the American Federation of Labor (as far back as the 1880s) developed the concept of exclusive jurisdiction. Under this principle only one union was authorised to represent employees in a particular occupation, a group of jobs or, occasionally, an industry. Employers generally accepted exclusivity since it stabilised labour relations by diminishing disputes among competing unions. It was natural, therefore, for the principle to be embodied in public policy when the governement began to develop detailed regulation over C.B. Thus, during World War I a system of elections was adopted to enable groups of employees to select a single representative by majority vote. The same procedures were subsequently carried for ward on a broader scale in the National Labour Relations Act of 1935 and its subsequent amendments.

A different system of representation prevails in most other industrial democracies. In a few countries, as in Western Germany, the federation is made-up of 16 unions neatly divided along industrial lines so that there is less need for an explicit doctrine of exclusive juris-

5. See *J. Bergman* et al, op. cit.

diction in order to curb union rivalries. While in still other countries, as is the case in Britain, unions are for the most part not organised on an industrial basis but according to occupational categories. Yet, some of the largest and most powerful unions in Britain are «general» in their pattern of membership, that is, they organise irrespective of industrial boundaries or occupational grades[6]. Because of the deeply entrenched pattern of occupational and general unionism in Britain there is a multiplicity of unions representing different groups of employees in most enterprises. Co-ordination is achieved through a joint shop stewards committee which, since they are not responsible to any nuion, enjoy a high degree of autonomy[7].

III. INDIVIDUAL BARGAINING

Under almost any system collective bargaining leaves room for a degree of individual negotiation over certain terms and conditions of employment. Even in the U.S. the law explicitly provides that an employee can discuss individual grievances with representatives of management. And in a few fields agreements typically leave employees free to bargain individually for salaries above the minimum. For the most part, however, collective agreements in the U.S. specify the actual wages and terms of employment which in fact govern the workers in the bargaining unit and individual employees do not negotiate different terms on their own behalf.

In most other industrial democracies the scope for individual, or small-group bargaining, is much greater. Collective agreements generally do no more than provide minimum wages and conditions, as is the case in Britain (with some major exceptions in the public sector and in new plant agreements). In the tight labour market that has prevailed after World War II actual wages have drifted well above the contract rates in the great majority of plants. As a result, the actual rates of pay are largely fixed by individual bargaining. Collective agreements in the U.S. also tend to specify many more conditions of employment than is the case in other counties. A Western European

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6. *H. A. Clegg*, The System of Industrial Relations in Great Britain, 1970.

7. *B. C. Roberts* and *Sheila Rothwell*, «Recent Trends in Collective Bargaining in the U.K.», in I. L. O., op. cit.

union contract, for example, normally obliges the employer to observe little more than a minimum wage scale and a few basic provisions relating to working conditions and perhaps a few fringe benefits. In the U.S., on the other hand, agreements are extremely detailed and far-reaching in their content. Collective bargaining typically regulates standards for discipline, promotion criteria, transfers and layoffs, priorities for determining who will be laid off and recalled, shift schedules, procedures for resolving grievances and a wide variety of other matters[8].

The decentralised structure of the American Industrial Relations system does much to explain the greater reach ot the collective agreement and the more restricted role for individual and small-group bargaining and unilateral action by the employer. In Europe where negotiations normally embrace entire industries or groups of related industries in particular regions and where so many diverse employers participate in the negotiations, it is extremely difficult to write a detailed set of contract rules applicable to each participating firm. As a result, the parties have been content to negotiate contracts containing only a limited number of minimum terms and conditions. In the U.S., on the other hand, the pattern of plant and company-wide bargaining enables unions to negotiate contracts specifying a detailed system of wages and working conditions to be observed at each workplace. Even in industries where multi-employer bargaining has prevailed unions have been sufficiently organised at the plant level to negotiate supplementary provisions to take account of special conditions in particular plants. But in most European countries this process has been much slower to develop. In Germany, for example, unions —lacking strong organisation at the workplace— have left many terms of employment to be resolved through individual bargaining or by consultation with workers' councils which have been established by law and are not a part of the union formal hierarchy.

IV. THE ROLE OF LAW IN FIXING CONDITIONS OF EMPLOYMENT

Just as individual bargaining plays a part along with collective negotiations in setting terms and conditions of employment so also

8. *H. Davey*, Contemporary Collective Bargaining, 1972.

does the law have a role in the process. In every industrialised country legislation has been passed to perform such functions as fixing minimum wages or maximum hours, or providing safety requirements, or requiring payroll deductions for social security and other welfare programmes. The structure of bargaining in the U.S. has caused the law to play a more ambitious role in collective negotiations than it does in European countries. There is much more regulation in the U.S. over the tactics and procedures of bargaining than is the case in Europe. This difference largely reflects the special tensions and pressures that arise in a highly decentralised system of bargaining. Under plant-wide or company-wide negotiations the individual employer must confront the union in his enterprise, instead of having negotiations to his employer association to be conducted on a regional or industry wide basis. The bargaining process reaches into the details of his business, seeking to regulate every aspect of working conditions in his plant. The contract terms do not merely set minimum standards but also fix the actual conditions to be observed. Above all, the institution of bargaining threatens to subject him to contract obligations that may put him at a disadvantage with his nonunion competitor or even other organised enterprises. Under these circumstances the bargaining process is accompanied by greater tension and the employer often resists the union more stenously than is common in less competitive economies. In turn, the law responds to these strains and seeks to contain antagonisms within reasonable bounds. Thus, the law in the U.S. defines the subjects that must be bargained about. It requires the parties to «bargain in good faith» and clothes this obligation with detailed rules prescribing stalling tactics, withstanding of relevant information and other forms of behaviour that are considered unfair. The net result is a complex of regulations that greatly exceeds anything to be found in other industrialised countries.

However, it could be argued that the law plays a similarly significant role in fixing conditions of employment in Germany. The entire Industrial Relations system in the Federal Republic is built on a highly developed series of legal regulations. The aim is to check the conflict of interests and to avoid the resulting political risks. These ends are being achieved by having the state itself regulate matters that are amenable to autonomous collective bargaining, as for instance the relations between employees and management within the enterprise and by legislation and juridical prescriptions laying down structural

conditions and principles for collective bargaining and the conduct of industrial disputes. Through general legal regulations of the relations within the enterprise, the unions are denied the right to represent the workers' intersts within the enterprise. They are limited to collective bargaining with the employer associations beyond the enterprise level. The works council is the legally designated representative of employees in the enterprise for co-determination and participation in the regulation of social and personnel affairs. By reason of its legal status and priviledge to negotiate with management the council helps determine the union's influence within the enterprise. Thus, the system of industrial relations in the BRD assumed its specific dual character and this, above all, accounts for its flexibility and ability to absorb social conflicts.

On the other end, the British traditional system of industrial relations is based on voluntary collective bargaining, that is, without legal compulsion on either side —implemented through unenforceable agreements negotiated by a large number of joint multi-union and multi-employer industry—wide negotiating committees; in addition there have been the recent moves to company and/or plant bargaining. In the present century the system has evolved in a predominantly laissez-faire atmosphere, largely free of legal constraints on the behaviour of the parties. Apart from general support for collective bargaining the involvement of the government in peacetime has been minimal, limited essentially to the establishment of «temporary» statutory wage-fixing bodies for those residual sectors where manual worker trade union organisation was weak and wages were low and the provision of supplementary services for voluntary methods of dispute settlement in the form of conciliation, arbitration and ad hoc inquires.

In this brief paper I have tried to present the main characteristics of collective bargaining in the United States of America and to account for the differences that distinguish it from that of other European countries, particularly Britain and the Federal Republic of Germany. The main conclusion seems to be that the bargaining structure in most countries has been adopted to the evolving traditions and ideologies and the changing objectives and strategies of organisations of employers and workers to technological and market requirements.

The prevelence of industry-wide bargaining units in Europe can

be historically traceable to union and employer preferences. Employers preferred multi-employer bargaining at district or higher levels and unions, on the whole, were willing to settle for regional or national bargaining because it helped to set a floor under wages, kept the members from competing with one another for available work by offering to work for less and generally was a substitute for protective labour legislation in establishing a body of rules of general application. There was also an ideological side to the preference for industry-wide bargaining. Many unions regarded themselves as merely part of a broader working-class movement struggling for a fundamental reconstruction of society. From that point of view, enterprise-by-enterprise bargaining or any other kind of highly segmented representation of interests in relation to employers had little appeal. Regarding workers and employers as the embodiment of distinct and basically conflicting forces, the unions emphasized the importance of dealing with employers through massive class action in which an industry as a whole, or a territorial subdivision of it, constituted the appropriate arena.

In the United States developments took a rather different turn, mainly due to «employers' attitudes». The spirit of competition and the belief in individual initiative were often too strong to tolerate the restraint necessary for cooperation and compromise within an employers' association. Anti-trust legislation also seemed to hinder at least certain kinds of employer combinations. In some industries the size of the individual firm was more than ample to allow self-sufficiency in dealing with unions. Finally, collective bargaining in the mass-production industries made headway only after receiving explicit government support in the mid 1930s and the rules introduced by legislation at that time placed a premium on the establishment of bargaining relationships plant-by-plant and enterprise-by-enterprise.

Employer preferences for restricted rather than extensive bargaining units were frequently shared by unions. The prevailing philosophical orientation of most unions directed their attention not to «distant social goals» or «sweeping reforms» but to practical step-by-step improvements of actual working conditions. These aims were best achieved by organisations that held secure positions inside the enterprise. Various forces have contributed to this peculiar lack of class sentiment among union members. One important factor was the extreme heterogeneity of the American labour force in the formative years of industrialisation. During this period, a network of language,

racial and religious barriers was thrown up by repeated waves of immigration. Particular ethnic groups gained control over different jobs while recent immigrants were used as strikebreakers by employers. These experiences produced cleavages that kept the labour movement from achieving the degree of unity reached in some European countries. Labour organisations in America also grew up in a society that stressed the ideals of classlessness, individual initiative and abundant opportunity, a society in which workers enjoyed the right of suffrage and the opportuniy for a free public education. In this atmosphere, employees were less inclined than workers in Europe to submerge their sense of individuality and identify with a working class.

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