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European Works Councils: representing workers on the periphery

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Abstract This article presents the results of a survey of European Works Council (EWC) delegates in multinational companies in the Notice East of England. It uses empirical data from a postal questionnaire and interviews with all regional representatives to analyse the key issue of employee representation. The authors argue that EWC representation is inextricably linked with corporate organisation and that this creates significant problems in a region such as the North East where a "peripheral" economy is particularly sensitive to the rapid restructuring of multinational capital. The analysis is developed in a context of closure and divestment and explores the questions of how EWC delegates are selected; their ability to "report back" to those they might be said to represent and the problems of working across national boundaries.

Introduction

The European Directive on information and consultation in multinational companies (MNCs) and its transposition into law in the countries of the European Economic Area has seen the establishment of approaching 600 European Works Councils (EWCs) in less than a decade (EIRR, 2000). The European Commission's original proposals on employee consultation were drafted amidst wider concerns to limit the power of monolithic MNCs and were strongly resisted by employers (Hall, 1992). The final outcome is strongly voluntarist and many MNCs have taken advantage of the two-year implementation period to negotiate their own agreements. These are now being implemented in a dynamic marketplace characterised by a rapid process of mergers, acquisitions and divestments (Edwards, 1999). This process of continuous organisational restructuring poses challenges for the successful development of EWCs and raises problems in relation to the appointment of EWC delegates, their representativeness, and their ability to communicate effectively. These issues are of particularly critical significance for EWC delegates who are employed in company workplaces that are geographically peripheral and where organisational structures supporting inter-employee communications at national level are lacking.

In contrast to works council systems elsewhere in Europe, the UK provides an example of an industrial relations system where institutional structures fostering formal inter-employee communication at different levels within an organisation are not strongly developed. The North East of England is a region with a major MNC base at the geographical edge of the European economy and is characterised by significant economic restructuring. Within this national and regional context our research explores the key questions of communication and

representation in EWCs and reviews the limited support available to European Works Councillors. Following a discussion of the research methodology we describe the dimensions of the North East regional economy and we follow this with an analysis of data from a regional survey of EWC delegates. We then go on to address the key issues of employee representation by analysing methods of selection, procedures for reporting back from meetings and the difficulties of communicating and working across national boundaries.

The research methodology

Estimates suggest that approximately 1,200 MNCs are potentially covered by the European Directive (EIRR, 2000). Findings from our research in the North East of England (Cleveland; County Durham; Tyne and Wear; and Northumberland) has identified 220 MNCs, including 70 UK owned, which control 416 regional locations. These regional locations and their parent MNCs were identified through searches which cross-referenced regional, commercial and public sector sources with the European Trade Union Institute's (ETUI) database of MNCs covered, or potentially covered, by the Directive (ETUI, 1997).

The ETUI estimates that of these 1,200 MNCs 587 have signed EWC agreements, of which 92 involve UK owned MNCs (EIRR, 2000). Of the 220 MNCs we identified, 124 were covered by EWC agreements, including 39 from the UK (42 per cent of the total). These were cross-referenced against available information on existing EWC agreements, including the TUC list of MNCs with UK delegates. The resultant information was then distributed to trade unions at a national and regional level to obtain assistance with the identification of delegates. This has produced a UK list of over 430 EWC delegates, 55 of whom (13 per cent of the total) were based in the North East region. These regional delegates were based in 30 MNCs including eight from the UK. Our empirical data were gathered using a two-stage process in which 19 semi-structured interviews were conducted and postal questionnaires sent to all EWC delegates who were not interviewed (39 in total, of which 24 were returned). This gave us a final sample of almost three-quarters of the regional EWC delegates that we were able to identify.

Of the data returned covering 25 MNCs one agreement was under Article 6 of the EWC Directive, we were unable to identify the agreement article in two cases leaving the remainder as Article 13 agreements. Of the companies eight were UK owned; six North American; two Norwegian and German; and one each were Canadian, Dutch, Finnish, French, South Korean, Swedish and Swiss. Of this total 20 (80 per cent) were in manufacturing industry and the rest in the service sector. The manufacturing bias is large and typical of the industrial structure of the region but it is not substantially out of step with other findings on sectoral distribution (Marginson *et al.*, 1998, p. 9). It also reflects the pattern of MNC investment in the region although there is a smaller representation of Far Eastern multinationals than might be anticipated.

Of the delegates themselves, over 90 per cent were trade union members, of which 12 were GMB; eight AEEU; five GPMU; four TGWU; three UNISON; two each from the CWU, ISTC and MSF; and one from UNIFI; four respondents were non-union. Our tracking process for EUC delegates limits the possibilities of identifying non-union representatives (although we located four of these) which inevitably colours the results. However, EWC representation in the North East is likely to be dominated by trade union members given the strong regional trade union density which was the highest in the UK in 1999 (Hicks, 2000).

The North East economy and EWCs

European works councillors in the North East of England are part of an economy that is strongly dependent on inward investment and particularly susceptible to the decisions of MNCs located elsewhere. The notion of a branch plant economy has become commonplace in its application to the region with its implication that mobile multinational capital has little commitment to its "peripheral" plants (Beynon *et al.*, 1994; Pike, 2000). In the last two decades employment in the northern region (including Cumbria) has become increasingly dependent on foreign capital, such that in 1978 12 per cent of manufacturing jobs were in overseas based companies, by 1989 this had risen to 19.6 per cent and in 1996 stood at 30 per cent (Stone, 1997).

The branch plant argument is a strong one but is inevitably more complex when analysed with regard to the differing stages of development, and varying corporate strategies, of MNCs. The most well known typology of MNCs has been developed by Heenan and Perlmutter (1979) in relation to ethnocentric, polycentric and geocentric MNCs and we would argue that this suggests potentially different strategic approaches to regional plants. These categories might also be related to the development of EWCs themselves. Thus, for example Streeck (1997) has argued that EWCs can be regarded as extensions of particular national industrial relations structures which might easily be related to Heenan and Perlmutter's ethnocentric MNC.

Further complexities arise when considering the strategic significance of a particular plant, its size and potential for growth (Richbell and Watts, 2000). Thus, for example, a MNC with a diversified business strategy whose base in the region has grown through mergers and acquisitions of brown field sites is more likely to develop a "branch plant" strategy than one that is concentrating on its core business and has developed a greenfield site with further expansion potential. In such a case the MNC might develop a more polycentric or geocentric approach which then impacts on the nature of the EWC and the role of its participants. These different focuses are evident in the development of foreign direct investment in the North East region and have significant implications for membership, organisation and communication in EWCs.

Rapid regional restructuring is reflected in our sample where 15 of the 55 identified delegates are now no longer members of an EWC following plant closures or divestments. This amounts to a 27 per cent turnover of delegates

over a three-year period and makes stable delegate relationships difficult to forge and maintain. However, the experience of participants is not all wasted as at least one delegate who had lost his membership through an acquisition was now in contact with counterparts at the new company in order to establish an EWC. Conversely, another company which was rapidly bought and sold left the EWC delegate attending just a single meeting. This fluidity in corporate organisation raises a significant problem as EWCs become unstable with continuous changes of membership as employees are shifted from company to company. One full time trade union interviewee noted the difficulties in the textile sector where MNCs are divesting at a dramatic rate leading to a situation where trade union representatives are now appointed to the EWC as and when required.

Shifts in the regional economy which emphasise its branch plant nature are reflected in the closure or partial closure of seven of the companies covered in the survey. This clearly impacts on EWC members relations with their colleagues and reinforces perceptions of EWCs as having little influence over corporate decision making. At one company which closed its UK plant, the then delegate believed that management was using the EWC to play UK and German workers off against each other:

This made our German counterparts on the EWC very suspicious and wary of ourselves and as a result they wouldn't give us full support ... we still have a long way to go to develop trust.

At other companies involved in closures, respondents expressed clear disappointment at the lack of communication from management about imminent closures which led them to regard the EWC as ineffective and as one delegate forcefully put it "I would never go on an EWC again". There were more ambiguous responses from other delegates in closure situations. At one company with two plants in the region and a delegate at each there were contrasting views reflecting the decision to sell off one plant and retain the other. Not surprisingly, the delegate from the remaining plant felt that the EWC had provided an important contribution to "strategic decision making" and a "long term" approach to the business. His colleague felt that the company "was making a mockery of the EWC" in announcing the divestment decision a week after its meeting without any previous discussion. In a further case of partial closure, the delegate felt that although the EWC had achieved little in relation to the announced redundancies, it offered the prospect for developing strong international links that would need to develop over time.

These problems of limited influence are compounded by the lack of membership stability and the resort to national interests that are common for EWCs in general. It is clear that they undermine sustained EWC development as experience and potential solidarity are lost as delegates are no longer employed or are replaced by others through mergers and acquisitions. This issue becomes even more sharply focussed in a region with a shifting employment base dependent on inward investment and whose European

Works Councillors might be regarded by MNCs as just as peripheral as their workplaces.

Employee representation: selection

Given this fluidity of multinational capital, EWCs have a potentially critical role in representing employees at the level where decisions are made. However, it is precisely this fluidity that has the potential to inhibit and disrupt the ability to organise, represent and communicate effectively. Moreover, these corporate changes are impacting on a new organisational form that is seeking to establish effective procedures and ways of dealing with cross-national communications. Questions of representation and communication were, therefore, central to our empirical research. This is, in part, structured by whether agreements are under Article 6 or 13 which allows for voluntary agreements to be developed. As we have indicated, the overwhelming majority of our respondents were in companies with Article 13 agreements leaving them free to negotiate selection procedures.

There are two key elements to the process of EWC representation: selection of members and accountability through "reporting back". This question is particularly significant for EWCs in the UK context in relation to the development of national structures of employee representation in multi-plant companies. Moreover, the UK guidance on the Directive refers to elected national consultative committees in companies as having the right to appoint the members of the special negotiating body that creates the EWC (DTI, 1999). The Workplace Industrial Relations/Employee Relations surveys indicate some growth in "higher level committees" recorded by managers in workplaces that are part of larger organisations. Of these organisations 56 per cent had such committees in 1998 compared to 50 per cent in 1984 (Millward *et al.*, 2000, p. 113). However, not all workplaces can expect to have representatives on such committees and only a minority (around two-fifths) of workplaces did so (Millward *et al.*, 2000). This leads Millward *et al.* to conclude that:

If legislative developments at the European level in the 1990s were expected to have a pervasive influence on the extent of consultative arrangements in Britain, such an expectation has yet to be fulfilled (Millward *et al.*, 2000).

An alternative, and more restrictive, mechanism for selection other than through consultation committees is via some form of company wide trade union organisation. One possibility is for there to be some form of collective bargaining arrangements bringing together trade unionists at the national level of the company. However, the decline of collective bargaining arrangements in the UK is well documented and the WERS survey suggests only 12 per cent of multi-site organisations covered by single employer bargaining (Millward *et al.*, 2000, p. 186). Equally, the prospects of single employer trade union "combine" committees offering an alternative is also likely to be limited. WERS suggests a decline in these committees in relation to manual workers from 42 to 38 per cent

between 1984 and 1990 (Millward *et al.*, 1992) and, although there is no later data, circumstances have hardly been favourable for their re-emergence.

Without a structured system of representation from workplace to national level the process of selection of EWC delegates and systematic procedures for reporting back will be largely ad hoc and this is reflected in our data. Two-thirds (65 per cent) of the EWC delegates had been elected whilst the remaining third had been appointed. However, there is little uniformity in systems of appointment and election and there is a blurring of categories in relation to trade union delegates who may be elected to shop stewards' positions which become the basis for their appointment to the EWC.

The role of the union in unionised companies was critical in the selection of delegates, as one convenor said:

I just got a lot of mail through the front door one day saying you're the European Works Council rep for the UK and you have to attend the meeting next Friday.

A union official describes another scenario:

We allowed each country to decide how to nominate . . . in the UK it worked out quite nicely but . . . in the end people could not come up with names so it was left to ourselves and the other union.

The situation with non-unionised workers was graphically illustrated by a brewery with a strongly unionised manufacturing base and an extensive, and largely non-unionised public house network. The unionised brewery workers along with a minority of unionised pub staff used their trade union structures to elect delegates. The non-union delegates "volunteered" and felt they could represent nobody but themselves.

Employee representation: reporting back

Just as selection can often appear to be *ad hoc* so there was considerable variation in the range and effectiveness of systems for reporting back. In terms of representation, 24 delegates only represented their own plant, four represented plants other than their own in the region, two delegates represented their own plants and other plants nationally, and 11 represented their own, regional and national plants. Again, this representation is problematic given the large number of subsidiaries and their locations that we have identified as part of multinational groups. Of the companies covered by our empirical data we found five multinationals out of 25 with 300 or more subsidiaries in their family tree. At the other end of the spectrum, a further five had less than 50 with one having just seven. This, in itself, creates problems when EWC agreements are negotiated or re-negotiated regarding which subsidiaries are included under what the Directive describes as a "controlling interest".

Furthermore, the number of operational locations covered by an EWC agreement is almost impossible to calculate in relation to organisations such as high street banks with large numbers of outlets and MNCs with a network of sales offices. In addition there are MNCs whose businesses are based on

securing repeated contracts often in the public sector. For example, one respondent recorded that her company was managing over 300 school contracts in her region alone. At each school there were approximately six to ten people all covered by the EWC agreement and represented by her as the one national EWC delegate.

However, in spite of these difficulties 30 of the 43 respondents said they "reported back" to those they represented. Some used more than one method and seven different strategies were noted including union branch meetings and shop stewards' committees that were obviously confined to trade union organised companies. Of the other methods, workplace meetings and the use of newsletters were the most significant.

In the case of one unionised subsidiary which had the sole UK delegate the report back system and involvement of employees has been supported by management and had a growing level of sophistication. Referring to the other UK "sites", two of which were non-union, the EWC delegate records:

I visit them at least once a year (three to four days) \dots I send out questionnaires a month before the European Works Council meeting asking if there are any points they want brought up so I can take that across to Europe for the meeting and I come back and I report directly back to them.

By contrast, a trade union EWC delegate appointed by management at another MNC said:

I don't report back . . . really I represent people in Scunthorpe and Wales but I've never even met them, I don't even know where these places are, I wouldn't know who to contact.

While we have no direct data on the reception from employees and union members of the report backs, the qualitative interviews suggest, unsurprisingly, that EWCs appear more effective and are more valued when report back systems are in place and supported by management. Clearly, trade union organisation was more likely to encourage reporting back though not necessarily increasing employee interest. For example one respondent who was also a full time union official recognised the need to improve the situation:

 \dots because there's no point otherwise, if we cannot permeate downwards to the membership what's being said there.

Another official argued that strong membership apathy towards EWCs combined with a lack of EWC delegates meant that resources were being channelled elsewhere.

Communicating across boundaries

We found that effective systems of communication both between UK and European EWC delegates was developing rapidly. Almost two-thirds of the respondents had established communications with the other UK representatives outside of meetings; 60 per cent communicated with their European counterparts outside meetings and 14 per cent said they had

established communications with delegates from other EWCs and beyond. A BT delegate commented that:

We are the original Internet freaks and have built our trade union organisation through that ... so we keep each other informed about what is happening now world-wide.

However, a third of our respondents were isolated outside of EWC meetings and it is likely that some of those communication channels above had already been established through trade union committees before company EWCs were introduced. Nevertheless, this represents a significant development in communications between workplace employee delegates. Although, it is not surprising to find that these communications, particularly across national boundaries, can encounter significant problems.

Language and culture are inevitably key areas although UK delegates have the advantage in that English is becoming the dominant EWC language. Marginson et al.'s analysis of agreements suggests that a third of EWCs have opted for a single language and in three-quarters of them it is English (Marginson et al., 1998, p. 56). The analysis by Miller et al. (2000) suggests an even higher figure of 81 per cent and contrasts this with the 21 per cent of EWCs where English speakers comprise the "linguistic majority". As might be expected from this, the majority of agreements we covered gave English as the working language and respondents confirmed this. In another third of EWCs no working language was recorded in the agreement but in a further six, UK delegates held the majority of seats so English might be expected to be the dominant language. In an "official" sense, language would not appear to be a problem and might be coped with at formal meetings through the use of interpretation facilities. However, in response to an open-ended question about the biggest problem they faced as EWC delegates, a third noted the significance of the language barrier. As one respondent put it:

Most of the people who come can speak some English, but me, I only speak English.

Various strategies were adopted to overcome the problem, including training from the company, individual training initiatives and "learning German off my daughter". There is also some indication of the language barrier being overcome where there is mutual respect about what can be learned from each other. A respondent from one particularly diverse group noted:

We've all worked really well together considering the language barriers and the cultural barriers.

The union full time official commentating on the same EWC added:

Of course there are tensions because of misunderstandings through language and culture but that's good as well because you recognise it and solve it and move on.

Cultural barriers can be informal as much as formal but it is clear that understanding differences in national industrial relations systems is critical to effective communication and mutual trust. The concept of a national "industrial relations model or system" begs as many questions as it answers. However,

there is a relevant distinction for our research in relation to the development of understandings of the concepts of information and consultation. The UK has neither a legislative nor an institutional structure for "information and consultation" as it exists in the works council systems in much of the rest of Europe. Instead, UK industrial relations are often regarded as adversarial in a way that generates what Fox has classically described as "low trust" behaviour where:

... little can be expected ... in the way of community of values and sympathies; a shared universe of meanings [or] understandings and attitudes" (Fox, 1974, p. 75).

Thus there are potentially low levels of expectations from UK trade unionists who might regard the EWC as simply another forum for "having a go" at management about domestic issues. This might contrast with high trust relationships between European representatives and central management fostered by long-standing institutional arrangements for exchanging information. This can lead to UK perceptions of EWC delegates being "managers in disguise".

Problems with understanding different European industrial relations systems and traditions were also encountered and there was a tendency to regard other models as "better" than the UK in terms of information made available to European counterparts. For example, at one company the UK respondent noted that:

... the Europeans question every sort of thing and when an answer is given this leads to another six questions. I don't think this is language, it's culture. The industrial relations they are used to; it's more drawn out and much longer.

The cultural differences have meant that delegates have come to approach the EWC meetings more in terms of general principles rather than detailed agreements, as another delegate put it:

Getting together as a works council is more a point of trying to agree on principles as opposed to dotting the Is and crossing the Ts... because it just can't be done in that particular way.

Working with each other

Given the potential problems that EWC delegates face in establishing and maintaining communication, the support of others can become critical to success. Support for EWC delegates can come from three directions: the mutual support provided by other delegates on the EWC, support offered by management and, where the delegate is a member, support from their trade union. Support from other EWC delegates is dependent on the establishment of working relationships that can develop into personal friendships and we found a number of examples where this had occurred:

The German lads I'm keeping in contact with anyway because I'm learning German and I get on with them . . . I've got contacts across Europe and now they're urging me to just hop over in a plane and visit each other as opposed to writing.

And:

We communicate as friends, you know, Christmas and that sort of thing . . . I know that if I wanted some advice [I can get it from] the German lady, who's very experienced, she's been very helpful when I've phoned her up about things.

Support from management potentially operates at two levels: corporate and local and it is perhaps not surprising to find markedly different attitudes. On the whole, the response of corporate management was good and we might expect this given their role in establishing the EWC and at least nominal commitment to making it work. The immediate managers of the delegates are likely to prove more problematic in their support as they have to bear the direct cost of the delegates absence from work as well as the potential that the employee has direct access to corporate management that may be denied to the local manager. In general, local managers at delegates' workplaces were either supportive or indifferent to their role on the EWC with no respondent recording open hostility. However, the practical realities of participation did provoke problems with over a third recording difficulties with local management attitudes to the need for training and time off and to the access to information that was not available to them. In some cases these difficulties were overcome by utilising the strong local trade union organisation although this, in itself, could create further hostility: 'I don't employ you as a trade union rep, I employ you as an electrician". The following quote sums up the ambiguity in attitudes that many EWC delegates face:

Above the local level they have been good but our existing [local] MD is quite sceptical . . . he seems to think, I'm MD. I should be doing all this.

Trade unions also have a potentially key role in providing support structures for "their" representatives but only 14 respondents (a third of the unionised respondents) felt that their unions had given them any support. However, a number of respondents suggested that this was more a question of time given that EWCs are "a very new concept [and] until it really gets established you can't really see what support you'll need". It is clear, however, that training is an obvious area for support (Miller and Stirling, 1998) and it was a key issue for respondents.

There's a definite need for training because . . . I honestly don't know what I do when I get on an EWC. What do I talk about? Wages?

Delegates were asked what was being done to alleviate these problems and what training had been available prior to the commencement of EWC membership. The overall answers on training are disappointing but not unsurprising given the absence of a steer in the Directive on this issue. Of the 13 respondents who had received training, in eight cases it had been provided by the trade union, two times by the employer, jointly by the trade union and employer twice and by ACAS and the employer in the remaining case. The most telling comments, though, came from the full time officers interviewed who were honest in their assessment of the situation:

I don't think the GMB, or any other trade union, are up to it in terms of training for EWC representatives.

With both officers acknowledging, one explicit and the other implicit, that EWCs were at present low on the trade union agenda.

Conclusion

Our research is based on the North East region which can be seen as a "model" for monitoring EWCs. It is an economy dominated by multinational capital where subsidiaries and workplaces can become peripheral to core activity leaving them vulnerable to restructuring and potential closures. This was demonstrated clearly in the rapidly changing nature of our database as MNCs moved out of the region and closed or sold workplaces that remained open with new owners and, potentially, new EWCs. As we have argued, EWCs cannot be properly understood without contextualising them in relation to company organisation. Early analysis in this respect has been provided by Stoop who argues, as we do, that "it is clear that we cannot talk about EWCs as if they are all the same" (Stoop, 1999, p. 23) and suggests that differing strategies have to be adopted by delegates and that these are dependent on the different stages of development in multinational companies. It is clear that further research and analysis is needed to develop and clarify distinctions and add further elements to develop a dynamic model of the relationship between company organisation and EWC activity. However, one example from our research will illustrate the point.

BT operates in a rapidly expanding, technologically innovative and dynamic sector of the economy. This necessitates a highly competitive market with strong competition for market share leading to mergers and acquisitions or proposals for joint ventures such as that between BT and ATT. This activity has major implications for employment, industrial relations and the trade unions in the companies concerned, and offers an opportunity for the EWC to play a critical role in developments and stresses the importance of growing into global organisations.

We are looking at how we can develop [the EWC] from the union side rather than BT at the moment. For instance we were discussing at the last meeting how the joint holding company was going to set up between BT and ATT and how that was going to operate. Now once you get into the expansion in the Far East and Middle East we recognise as a union there's a need to spread that out ... We also meet the Americans over trade union issues, for example, we met recently in London because the Americans were having trouble with Disney ... we were able to help them and picket the Disney offices in London. It don't half put the shocks up these multinationals when they think we can be multinational as well.

In order for EWCs to develop we have identified the three critical areas of representation, communication and support. In each of these areas our research suggest that there are problems for delegates. There are difficulties in identifying which subsidiary companies are part of an agreement and then identifying and electing or appointing delegates. Even where this is done, delegates may have vast "constituencies" parts of which they may be

completely unaware. Problems of reporting back may be significantly alleviated where there are strong trade union structures in place. The level of support for EWC delegates also appears very limited and there are inevitable communication problems related to language and culture. However, highlighting the problems that our research identified would be to overlook examples of considerable achievements made by individual delegates. We found that strong communication links between delegates in the UK and at a European level had emerged and were often underpinned by informal friendships that overcame language and cultural barriers. Mutual support between delegates was also important as was the, limited, training offered. Perhaps it is appropriate to end with the words of the EWC delegate from De La Rue:

Whilst I am personally disappointed at what was actually achieved, I felt it was an unbelievable opportunity for shop floor representatives ... we have to start somewhere and build on what we have.

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