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Towards European Identities: the Case of European Works Councils

Introduction

At the Conference for European Political Culture in Berlin in 2004, José Manuel Barroso, in one of his first speeches as European Union (EU) president, spoke of Europe's need to develop a soul. Terms such as soul, culture, social cohesion, citizenship, and identity are buzzwords that increasingly penetrate the agenda of EU politicians. Although a common currency, the main symbol of economic integration, and the creation of supranational financial institutions have created a growing interdependence amongst Member States, such a fiscal convergence has not signalled the arrival of a common sense of belonging. On the contrary, Europe remains for many of its citizens an abstract idea, although as Wintle (1996: 2) argues:

Identity is usually multiple and potentially integrational, so there is no ostensible reason why European identity should not exist alongside a national one, in the same way that nation already exist alongside gender, race, age, and all the other aspects of identity which we have.

In a world where regionalization often appears to represent nothing more than the forward march of shareholder value, the European project is associated with

employment insecurity and sometimes decreasing labour standards (Grahl and Teague, 2003; Dølvik, 2002, Streeck, 1995, 1991). With Member States, excluding the UK, Denmark and Sweden,ⁱ abdicating responsibility over key economic variables with the introduction of the Euro (Teague and Grahl, 2003; Buda, 1998), not only have national systems of representation been undermined (Martin, 1999; Hoffmann and Hoffmann, 1997), but increased competition has led to a high degree of sectionalism (Hoffmann, 2002). Many employees find themselves in a “bidding war” over investment. Referred to at different times as social dumping, regime competition and negative integration within the context of the EU (Streeck and Vitols, 1994; Streeck and Schmitter, 1991; Streeck, 1991), such a political and economic environment threatens to awaken latent nationalist tendencies and puts EU social cohesion at risk.

Since Jacques Delor’s presidency, sections within the European Commission, particularly civil servants from DG5, have been conscious of the lopsided character of the EU (Rhodes, 1995). The emphases placed on social cohesion and the often praised European social model, i.e. rights to employment, protection and civilised labour practices (Visser and Hemerijck, 1997), represent subtle ways of acknowledging the harsh realities associated with neo-liberal economic integration. There prevails a risk that widespread resentment towards the EU will place in question the political legitimacy of Brussels. The adoption of the Constitution Treaty, in which social and human rights are explicitly made pillars in the EU construction, represents one attempt to address this potentially damaging Achilles heel. Of course, it remains to be seen whether the peoples and parliaments of the now 25 Member States endorse the treaty; whether this attempt at stronger social and cultural integration will actually

succeed or, if on the contrary it sparks off new waves of nationalist resentment. Another initiative is the *Charter for Culture*, which is planned as a bid to address regional anomieⁱⁱ, defined as a geographical area of governance in which there exists no sense of an attachment. Yet, even more than the Constitution this initiative will probably remain a non-tangible attempt to address the problem of a lack of social cohesion and common identity.

Although such legislative initiatives are commendable, there is an argument to suggest that historically the EU project has been reserved for elites and for this very reason has not acquired a significance strong enough to change outlooks and identities among ordinary citizens. Governance from above ensures that an important ingredient is missing, “negotiated interaction”, the process of organicism in which the individual and groups of citizens, rather than the legislator, define the shape and form of European norms and value systems. What alternative path is available, though? What structures and opportunities exist that are able to convey a common sense of belonging? To answer this question we suggest that there is a need to comprehend developments within European social regulation in recent years, the concern here is with what is referred to as the transition from ‘hard to soft’ law (Dølvik, 2000; Keller, 2000, Wendon, 2000).

References to hard and soft law are used to denote clear difference in Brussels’s policy agenda. Whilst hard law represents a commitment to European harmonisation in the field of social policy, the very basis for a supranational vertically integrated industrial relations system, Streeck and Vitols (1994: 18-19) note soft law represents:

... an emerging commitment to a decentralised regulatory regime with a preference for soft over hard law, private over public order, operating under a variable geometry of participants that are protected from central

intervention by ample opportunities for opting out, as well as by a general presumption of precedence of both market forces and local traditions over unrealistic normative regulation.

The crux of Streeck and Vitol's (1994) argument, one generally supported by other writers (Blank, 1998; Keller, 1998; Streeck, 1997; Oechsler, 1996; Altvater and Mahnkopf, 1993), hinges on a view that the Commission's interpretation of "civil society" is primarily directed by market rather than social commitments. In particular, they claim that first the Single European Act (1987) and then the Maastricht Treaty (1993) signalled a devotion to individualism over collectivism and subsidiarity over European wide solidarity. Referred to by Marginson and Sisson (2004) as representing the 'Americanisation' of EMU, the main line of argument here suggests economic integration will lead to more rather than less labour market dissaggregation.

Although we accept that first and foremost the EU project is a concern with economic power, at its centre guided by neo-liberal policies, we reserve our judgement with regards the perceived negative consequences this has had on European social policy. Though agreeing that a homogenous social sphere is not on the agenda of EU economic integrationists, it would be wrong to forget that the character of Europe is a contested terrain. Certainly, since the foundation of the European Trade Union Confederation (ETUC) in 1973 and the arrival of influential industrial confederations such as the European Metal Workers Federation, European politicians have been unable to totally ignore the interests of labour. Returning to the issue of EU legitimacy, negotiations are not only a pre-requisite of such a condition, but determine some level of compromise. Because of this fact there will appear intermittently 'windows of opportunity'. With regards the development of a European identity we

argue that Marginson and Sisson (2004) in their analysis of the EU policy shift from 'hard and soft' have located an important opening.

Representing a tendency for law to emphasise rules of procedure rather than specific rights and obligations, often discussed as the dilemma of subsidiarity, the current emphasis on a "soft" legislative approach has the benefit of delegating "responsibility to representatives at lower levels for implementation" (Marginson and Sisson, 2004: 87). Of course, it would be wrong to deny the ascendancy of procedure over compulsory obligations is not an expression of a rolling-back of state rule, namely deregulation. However, the delegation of responsibility, to bring European law closer to the people it affects, we argue is an important 'window of opportunity' that cannot be ignored. As will be demonstrated in the rest of this chapter we believe this fact is most prevalent in the 1994 European Works Council Directive, a piece of legislation which has created a unique European institution.

European Works Councils

In our view, one of the most interesting institutions in this context is the European Works Council (EWC). While globalisation generally and European economic integration in particular have brought about a wave of cross-national mergers and acquisitions, in turn leading to an increase in the number of workers dependant on employers/employees situated outside their own country, labour representation remains a national concern. The 1994 European Works Council Directive (EWCD) acknowledges this fact. To redress this imbalance the EWCD grants employee representatives the right to meet across borders as well as to be informed and consulted by top management at least once a year. A number of factors lend support

to seeing the EWC as an important experiment in the development of European identity.

First and foremost the EWC potentially oversees the regulation of what is central to most peoples' lives, employment. Not only is there a common reference point, work, virtually an inescapable part of the human condition (Thomas, 1999), but a chance to observe the wider, transnational processes structuring and restructuring employment and work and to learn how these processes are not restricted to local environments, be it the immediate place of labour or the nation state. Next, the EWC is a symbol of the contradictory forces that inhabit the EU's geographical realm. Whilst the EWC represents a supranational attempt to consolidate the position of employees, its divergent nature cannot be ignored. It is generally acknowledged, for example, that management may try to use this European body to promote deregulation (Tuckman and Whittall, 2002; Wills, 2000) or to create an in-house company micro-corporatism detached from the influence of trade unionism (Schulten 1996). This brings us to the final and most important aspect of EWCs, however. The EWC represents an opportunity from below, our designated 'window of opportunity', for employees to cross-nationally address the tensions and injustices inherent within the neo-liberal regime of economic monetary integration, i.e. to interact and draw-up alternative agendas to the many forms of insecurity inherent under modern-day capitalism (Standing 1999). In short, we believe that EWCs have a potential role to play in and against the new model of production and management characterised by Manuel Castells (1996: 238) as "the simultaneous integration of work process and disintegration of the workforce".

Since the early 1970s various groups sympathetic to labour have campaigned to alleviate the negative consequences associated with the internationalisation of the economy and closer economic integration in the EU, i.e. to close the employee representation gap. Although early attempts were unsuccessful, most notably the Fifth Directive (1972), the European Company Statute Act (1975) and the Vredeling Directive (1980), the EWCD passed in 1994 represented a notable breakthrough in this area (Lecher, 1998; Gold and Hall, 1994). Initially the EWC was a somewhat exotic body, reserved for academic writings and contentious political wrangling. However, recent events have shown that EWCs may be able to play a role in developing supranational industrial relations (Müller and Hoffmann 2001, Weiler 2004). For instance, General Motors's restructuring of its European operations, involving several cut-backs in recent years has been modified through interventions of the EWC (in close co-operation with the trade unions). In addition, an increasing number of employees have discovered that their future fate can be influenced by this European institution.

Quantitatively 2169 multinationals were covered by the EWCD by 2004, a 14% increase on the 2002 figures (ETUI, 2004). It is estimated that 737 EWCs have been founded, this representing about two thirds of all workers in multinationals coming under the jurisdiction of the Directive (ETUI, 2004). In his study of EWC agreements Paul Marginson (1999) found that there were on average 18 employee representatives on EWCs. This means that a new level of representation exists, this accounting for more than 12,000 employee representatives. So, although the EWCD is another fine example of a top-down initiative (Miller, 1999), as a soft piece of legislation it has the advantage that it empowers a large group of new actors to enter the European scene.

Furthermore this is a group of actors, which are deeply involved in solving problems in ordinary people's everyday lives.

The interesting question remains, though, whether EWC representatives can make sense of their new European role. Can they see the need of filling the representation gap pointed out to them by trade union leaders, academics and European Union legislators? Can they establish solidarity links with colleagues from other European countries in a similar fashion they are used to doing within local and national settings? Moreover, will EWC delegates be able to develop common perspectives, mutual understandings and a common identity in addition to their already local and national anchored identities?

Existing evidence indicates that actors find it extremely difficult to cultivate common positions. Resistance abounds on the part of EWC delegates to step outside their national environments even after having acknowledged the necessity of developing supranational relations (Whittall, 2003). Case studies have even demonstrated how the EWC can develop into a factional instrument (Tuckman and Whittall, 2002; Wills, 2000; Hancké, 1998), the promoter of parochial as against supranational interests. Preliminary research on the interaction between EWC delegates has uncovered numerous factors as inhibiting actors' ability to identify with this still relatively new European institution. These include:

- EWC objectives (the role of the EWC)
- Differences in national industrial relations background (Knudsen, 2004; Whittall, 2004),
- Language and cultural obstacles (Stirling and Tully, 2004)

- Intensity of communication (Weiler 2004)
- Degree and type of trade union support and consciousness (Lecher et al, 2001)
- Competing interests (visible notably during company restructuring processes) (Weiler 2004).

Although most representatives share a similar background as experienced employee representatives, with an often well developed sense of how to act in a solidaristic way, the result possibly of basic trade union principles (Miller 1999), they nevertheless arrive at the European scene with different experiences, perceptions and expectations. For example, in a recent comprehensive study of 41 companies from six EU Member States, Weiler (2004) discovered the functioning of the EWC is seen very differently by representatives in parent companies and foreign subsidiaries:

“In some cases, there seems to be more agreement between the management and the employee representatives in the headquarters than between the employees in the parent company and the subsidiaries” (Weiler 2004, 57)

Differences among representatives could further be traced back to divergent national industrial relations practices and prior experiences with company employee representation. Tensions could be observed in particular between co-operative, social partnership approaches and adversarial, ‘independent’ employee representation traditions (Weiler 2004, 58). In addition, the research found great variance to the extent in which EWCs had developed a joint European perspective and strategy of employee representation. Only a few EWCs, among them those at Volkswagen and Whirlpool, are reported to have reached this advanced stage, what Lecher (1998) refers to as a ‘collective identity’.

It is by now evident from the research on EWCs that the issue of a collective identity within EWCs is a crucial step in these new bodies attaining a role that is more than merely symbolic or embryonic. This fact became most apparent when identity emerged as a key discussion theme in workshops on EWCs at the International Industrial Relations Association Regional Congress in Estoril, Portugal, and the Industrial Relations in Europe Conference in Utrecht, Netherlands, in 2004. The development of a European identity within the EWC was viewed by presenters as the decisive stage in ensuring that this structure becomes a key player in representing employee interests at a transnational level. The assumption increasingly exists that the procurement of a collective identity, i.e. delegates' close identification with the EWC, remains the main prerequisite if this European institution is to develop into a "functional and stress resistant" structure through which co-operative decisions can be taken (Altvater and Mahnkopf, 1993).

This book, involving researchers from nine countriesⁱⁱⁱ, represents a unique and extensive consideration of the processes and problems related with developing European identities within EWCs. Instead of the usual format associated with books on EWCs, i.e. a compilation of chapters dealing with this institution in a general fashion or from many different angles, we have asked writers to focus closely on our main theme, identity. Before considering the relevant chapters in more detail, we will now turn to consider our conceptual understanding of identity. This we hope will not only assist readers' in working through the relevant chapters and give the volume an important sense of orientation, but also reveal the complexity involved in the development of a European identity.

The Construction of an EWC Identity

Identity denotes sameness and congruence. Yet, in these so-called post modern times we are constantly reminded that identities are changing. Identity is no longer based on tradition, but on the roles and positions we are given or take on. For Stuart Hall (1996: 3-4) identity cannot be understood as “that stable core of the self”; identities are “increasingly fragmented and fractured” and “multiply constructed across different ... discourses, practices and positions”. Identities are not stable, constructed by and resting in themselves, on the contrary, they are the product of differences:

This entails the radically disturbing recognition that it is only through the relation to the Other, the relation to what it is not, precisely what it lacks...that the positive meaning...can be constructed” (Hall 1996, 4-5).

While a person’s identity is constructed through intrapersonal processes, group or collective identity is created through interpersonal encounters, communications and experiences with other persons. Perhaps here it becomes clearer if we say that identity is the construct of differences. The group creates its norms and values in contrast to other actors and their different values. The notion of a group is for this reason a symbol of differentiation. The important thing to note about the EWC as a group, however, is that it is not constructed in an organic, voluntaristic manner. Because the EU adopted this Directive, and because trade unions urge employee representatives to take advantage of this window of opportunity, employee representatives find themselves situated in a body, which initially cannot be defined as a group. This is because EWC delegates find themselves alongside counterparts from other plants and other countries that are already members of other distinct groups. Jean Paul Sartre (1976) called such a grouping ‘a series’ and used the example of a group of people queuing up for the bus. They have a common interest in travelling on the bus, but apart from that nothing binds them together. Likewise, EWCs may start from the same

point of departure where the only thing the representatives have in common is that usually once a year they can participate in a meeting with the top management. From then on, though, only conscious efforts on the part of the EWC delegates can help transform the EWC into a group with a more or less developed common sense of identity. Not only do they have to communicate with each other so as to become conscious of common conditions and so develop what Goffman (1956: 26) refers to as 'interdependent activities of an on-going social system', but moreover this is an essential act in becoming a group subjectively.

We contend that identity is constructed through identification processes. Identification implies recognising that conditions, characteristics and aspirations are shared with another person or group, a haven against external threats, either real or imagined, out of which a sense of belonging, allegiance and solidarity can emerge. It needs to be recognised, however, that although the processes of identification take place within determinate material and symbolic conditions, they are not only open-ended, but also always on-going and never completed (Hall 1996).

In considering identity within the context of EWCs there are number of questions that need to be addressed: Who do employee representatives identify with in their role as employee representatives (disregarding that they probably also identify with their family, nationality, perhaps the local football club etc)? Is it the constituency that elected them, the trade union they belong to or the colleagues on the EWC or the whole workforce of the multinational company? Any representative will have his/her own answer – and the answer today might very well be different from that of yesterday or tomorrow. This is because environments, discourses and choices are in a constant flux of change. Identification and identity are complex issues; they combine

elements from different worlds which not only have to grapple with their own internal (lack of) consistence but can end up being reoriented in the light of new events and experiences. In addition, we have to accept that employee representatives may be narrow-minded and identify almost exclusively with their immediate constituency. Alternatively, however, they may be broad-minded identifying with the global cause of labour or move from one identity to another influenced by changes occurring in their life and the discourses dominating it.

A crucial point seems to be how the collective “we” are constructed vis-à-vis the Other. According to Marxist theory the Other is of course the employer, the local management as well as the central management in the headquarter of the company. Against the employer the employees will construct a common identity based on a common condition of exploitation, and relations between them will be based on solidarity. Such a position assumes that in dealing with the harsh realities of increased international competition, what Hoffmann (1997) refers to as the threat of “exit”, the export of jobs abroad, labour representatives will seek to form alliances outside their immediate national environment to influence such processes (Whittall, 2003; Knudsen, 2003b). The foundation of an EWC is symbolic of such a conscious decision.

Theoretically at least there exists a connection between employees divided by national boundaries. This involves an awareness that globalisation and regionalization is increasingly a general experience and not simply one restricted to a particular place or time. However, we contend there are a number of problems associated with this position. Marxist theory was wrong in expecting the development of an interest-based

class-consciousness to confront employers everywhere, eventually leading to the overthrow of the capitalist system. This is not to deny that the material interests underpinning capitalism are a strong vehicle for social orientations and change. We are not denying the universal subjugation of the working class within industrialised nations, nor Burawoy's (1985: 18) assertion that 'every particularity contains a generality; each particular factory regime is the product of general forces operating at a societal or global level.' Nevertheless, there is a need to guard against 'conflating' what Marx (1985: 51) referred to as the "necessity of association", i.e. unbounded class solidarity. It needs to be recognised that in constructing a "we" employee representatives interpret what is in the best interest of their immediate constituency, followed perhaps by those of employees and trade unionism on a wider scale. This is because as Offe and Wiesenhal (1980) observed, geographically labour is predestined to a degree of parochialism by the very fact that capital comes to labour and not vice versa. With capital being increasingly mobile and able to easily change the localisation of economic activities, the national scene which the labour movement is so familiar with and where it has struck its compromises with capital in the past, are declining in importance. We need to recognise that capital can increasingly play nation states and national labour movements off against each other (Knudsen 2003a). As witnessed by recent rounds of concession bargaining in Siemens, SAS and other big European companies, this opportunity is used to increase working time and/or reduce pay. Global labour solidarity is the obvious answer to capital mobility, but that answer is probably less developed today than it was a century ago (Hyman 2004). As both Flanders (1975) and Weber (1964) note, as an interest group labour is marked by a high-degree sectionalism. Weber even demonstrated that the evolution of trade unions across Europe was closely associated with the process of "exclusivity", labour

organizations' primary concerned with restricting membership to their ranks as means of improving the market power of their existing members. What this denotes is a historical predominance to focus on the immediate, which has led to the construction of company specific and national patterns of collective regulation, the very forebearer of parochial sympathies (Lecher and Nauman, 1994; Mittelman, 1997). As Hyman (1999: 96) argues in his critique of the notion of universal labour solidarity:

Reality is different. We are shaped by our direct experiences, immediate milieu, specific patterns of social relations. Broader identities and affiliations are founded on the direct, immediate and specific, through intersubjectivities which link these to the external and encompassing.

The logic of this argument assumes, therefore, if a subsidiary in which someone is employed faces the threat of closure, the obvious response may be to mobilise resources in the local community, in government bodies and in local management. Whilst in a political and economic climate dominated by international factionalism it would perhaps seem much more unrealistic to contact employee representatives in other countries and seek their support for a united effort to change the decision of the parent company. At any rate, the employee representative has to make choices as to what is the most viable strategy to defend the interests of his/her constituency: to rely on known, tried and tested resources nearby or to try to get help from – the not so well known – resources of colleagues at the European level. Certainly, with the arrival of the EWC a European approach has become a more realistic option. However, given the obstacles mentioned above – is it worthwhile? Solidarity, according to Richard Hyman (2004, 42) “involves the perception of commonalities, which extend, but do not abolish, consciousness of distinct and particularistic interests”. For EWCs to become transmitters of international solidarity, EWC representatives need to become aware of the commonalities that exist across all the differences and obstacles.

Thus, as a premise and point of departure for this book we believe it to be an open question whether EWCs will remain “series” in character or will develop into strongly integrated groups or even institutions with common identities. It is our proposition that common identities will only evolve in EWCs where communication between representatives is sufficiently intense and frequent; where methods have been developed to overcome language barriers and cultural suspicion; and where one or more events have demonstrated that a common effort on the part of the EWC can make a positive difference. So far, this has been the case in for instance the EWCs of General Motors, Volkswagen and Whirlpool, but hardly in the majority of EWCs (Weiler 2004; Knudsen 2003b).

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ⁱ This is not to deny that any of these countries are less committed to neo-liberal course.

ⁱⁱ The 2004 Conference for European Political Culture in Berlin, committed Europe to passing a charter on culture in 2005.

ⁱⁱⁱ These include, Denmark, Sweden, Germany, Italy, Spain, Hungary, Netherlands, United Kingdom, Ireland.

