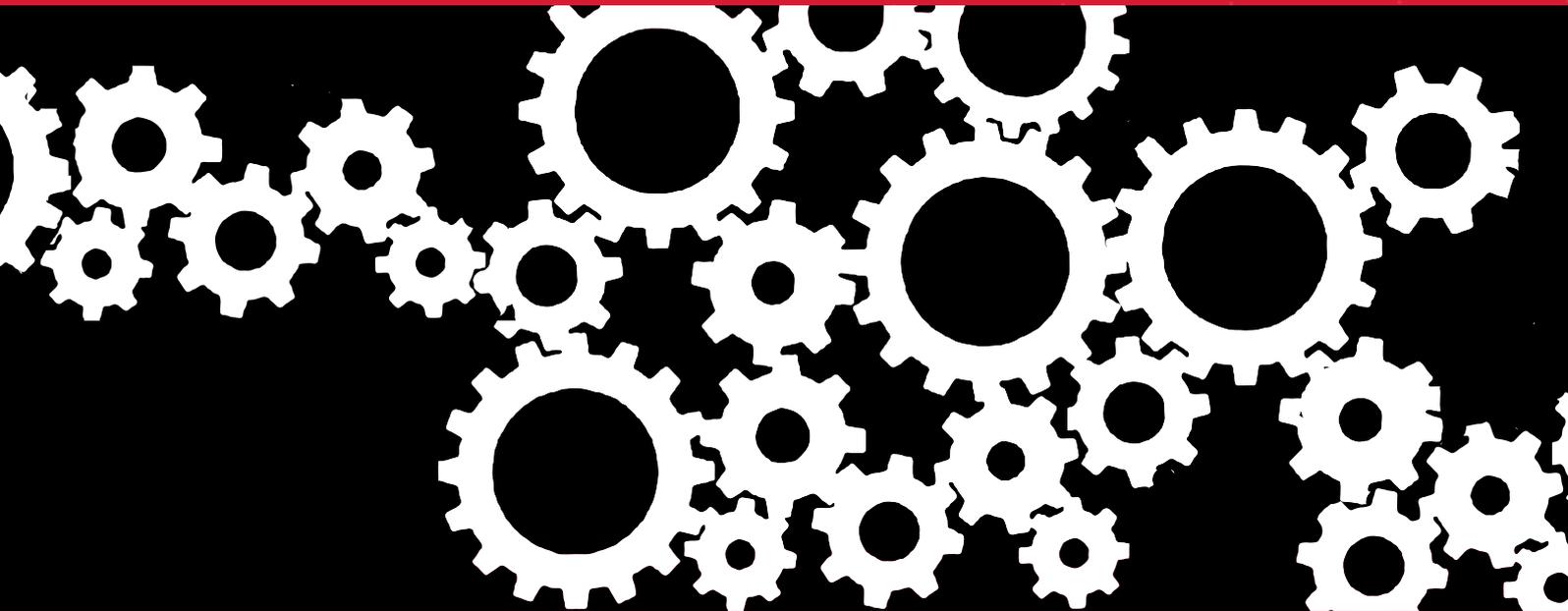




The Jimmy Reid  
Foundation

# Working Together

A vision for industrial democracy in a  
Common Weal economy



John Duffy, Gregor Gall and Jim Mather

November 2013

# Working Together

## A vision for industrial democracy in a Common Weal economy

John Duffy, Gregor Gall and Jim Mather  
November 2013

**John Duffy** is an active trade unionist who considers that the traditional approach to industrial relations has not served union members and workers well over the last generation. He is increasingly convinced that the current model is counterproductive to both the employee and in fact to the employer and that we must look for an alternative if we genuinely wish to reduce inequality and underemployment. In advocating a more collegiate approach and increasing industrial democracy he believes that fits well into the wider Common Weal vision.

**Gregor Gall** is professor of industrial relations at the University of Bradford. He is a columnist for the Morning Star and Scotsman, author of *The Political Economy of Scotland: Red Scotland? Radical Scotland?* (UWP 2005) and *Tommy Sheridan: from hero to zero? A political biography* (WAP, 2012) and editor of *Is There a Scottish Road to Socialism?* (SLRP, 2007) and *Scotland's Road to Socialism: time to choose* (SLRP, 2013). He is also a member of the Scottish Left Review Editorial Board.

**Jim Mather** is a Scottish Chartered Accountant, who worked in the accountancy profession and then for IBM, in Sales & Marketing, before establishing the ComputerLand franchise in Scotland in the 1980s. In 2003, he was elected as a member of the Scottish Parliament and, on being elected for a second time in 2007, served as Minister for Enterprise Energy & Tourism in the SNP Administration of 2007–2011. He retired from front-line politics in 2011 and is now a visiting professor at Strathclyde University, Chairman of Gael Limited: fulfilling other related consultancy & non-executive roles.

**Research by Ben Wray**

## Summary

The UK's industrial relations are failing - in a comprehensive measure of industrial democracy Britain ranks 26th of 27 EU countries. Britain has the worst employment rights, collective and individual, in Europe. This failure is not only bad for working people (where endemic low pay and insecurity result from low levels of unionisation) but for employers too (where failure to engage employees in running the business results in lower productivity and poorer industrial relations). If Scotland is to build an economy which is productive, innovative and delivers high-pay jobs, it requires a new model for industrial relations.

This report is the first of two which will explain what a better model would look like and how we would get there. This first report outlines why getting it right matters, why our current performance is unacceptable, what we can learn from elsewhere and what this would look like if translated for Scotland. But we are very well aware that this model, built on consensus and mutuality, must also be mutual and consensual in its creation. So once we are able to discuss with others the vision outlined in this report we will produce a second report on how to create an inclusive and consensual process for making it a reality.

So here we set out a vision of an economy with employees working with employers on the boards of companies, all sharing the aim of improving the business for all. It is a vision of the day-to-day work in companies being managed by cooperative committees of workers and managers working together. It is a vision of an economy where trade unions are strong and workers' rights and levels of pay are high, but where companies are more profitable and industrial disputes are rare. By giving employees back their dignity and by using their expertise to improve businesses, everyone benefits. This vision is part of a wider vision for a Common Weal economy that is being developed across a number of papers and reports from the Reid Foundation.

This model works elsewhere in Europe and we are convinced it is possible to create a Scottish version. Whatever happens, we cannot allow the national failures in industrial relations that we have recently seen in Grangemouth repeated.

The following is a summary description of the model proposed:

All workplaces would have collective bargaining recognition of all trade-unions no matter the level of trade-union density. These negotiations would cover pay, conditions, holidays, working-time agreements, pensions and notice periods. Where possible there would be industry-wide collective bargaining agreements. Issues like maternity, paternity and sick leave and health and safety regulation should be covered by universal employment legislation; it should also cover the minimum requirements for collective bargaining agreement issues. Rights on Dismissal would include rigorous assessment to safeguard from unfair dismissal and if grounds for dismissal are met a 'social compensation plan' should be worked through to give the employee the greatest opportunity of moving into adequate work or training. The standard rights against discrimination should apply with sanctions for employers found to break

them. If for whatever reason agreement cannot be found between employers and employees, employees should have the right to withdraw their labour with immediate effect on the basis of a simple majority vote, and have the right to picket.

All workplaces with thirty-five staff or more should set-up a co-operation committee consisting of an equal number of employee and employer representatives. The numbers represented should increase incrementally with the size of the workforce. The co-operation committee should be based have both consultation and co-determination powers, consultation meaning they have the right to information and co-determination meaning they have equal rights of decision to employer representatives. Co-determination powers should include social issues like organisation of hours, holidays, grading and re-grading, employment contract changes (which aren't subject to collective bargaining agreements) and workplace training and surveillance. Consultation powers should include full disclosure of company accounts and executive pay. The deputy chair and chair should be rotational between employee and management representatives. Employee representatives should be given fully-paid facility time for training, which could be co-ordinated by a joint body made up of experienced people from trade-union and management backgrounds. Responsibilities would include consultation with employees and taking employee concerns to the committee.

Board-Level Employee Representation should begin at companies with 35 employees or more. All board representatives, employee and shareholder, should have equal rights and access to information. One employee representative should be delegated by the recognised trade-union, one should be a representative from the Works Council and the rest should be directly elected by all employees. If less than three employee representatives are authorised, they should all be elected directly from the employees. Employee representatives should be given fully-paid facility time for training, which could be co-ordinated by a joint body made up of experienced people from trade-union and management backgrounds. Scottish companies with plants abroad should also allow for their subsidiary plants to have BLER rights. Companies head-quartered outside of Scotland should allow for employee representation at their highest decision-making body stationed in Scotland.

We believe a model of this sort is beneficial for both employees and employers. However, we believe that a national consensus should be sought so implimentation has the widest possible support from all sectors. We therefore propose a large, inclusive process (which might include a national convention) to secure that support from both sides in industrial relations.

## **Introduction: 'Never Again'**

In the wake of the near-calamity of the industrial dispute at the Ineos oil refinery and chemical plant there has been much soul-searching. How did Scotland allow its economy to be on the brink of disaster as the supplier of 80 per cent of our nation's fuel was threatened with indefinite shut down? More precisely, how did it come to a situation whereby our economy is in the hands of one decision by one man; Jim Ratcliffe, a billionaire oil tycoon and Swiss tax-exile?

A few hours after Ineos reversed its decision to close the plant and re-opened the refinery as Unite the union agreed to the 'survival plan', Pete Wishart, SNP MP for Perthshire, tweeted: "Can we, as Scotland, vow never to do Grangemouth again?"

Yet, no more than two weeks after Grangemouth, the Govan, Scotstoun and Fife shipyards were threatened with closure by BAE Systems. Workers had to wait to hear whether the centuries-old shipbuilding industry was over. The news they received was that approximately 1000 jobs would be lost, but the shipyards would stay open. In Portsmouth the shipyard was closed for good.

Two of Scotland's biggest industries and biggest employers – oil production and refining at Grangemouth and shipbuilding on the Clyde and in Fife – both threatened with closure, both decisions made by employer executives with no voice of employees, both sets of employees with no option but to wait and here their fate.

The only way to 'vow never again' is to take action to change industrial relations from a conflict model where employers and employees are pitted against one another to a co-operative model where both are integrated into the decision-making process to benefit everyone. Industrial democracy – where employees have a democratic stake in their work – is an idea that is seen as mainstream in many European countries but has been anathema to the dominant conflict model of industrial relations in Britain.

There is a growing consensus in Scotland that this has to change. John Swinney MSP and Finance Secretary for the Scottish Government has said Board-Level Employee Representation is "an important issue to consider" after the Grangemouth debacle.

In this paper we consider this and more in-depth, and through case-studies of Denmark and Germany we analyse how they have got industrial democracy right. In making the case for industrial democracy we draw on the experience of those from both sides of industrial relations – employee and employer – to come to a shared conclusion about what needs to change to create industrial relations that work for the Common Weal.

*Note on the Scottish Government's White Paper on Scottish independence: This report was completed prior to the publication of the Scottish Government White Paper on independence. While this means the report was not produced in the context of what the Scottish Government proposes, we believe there is much common ground. The White Paper contains good proposals on board-level representation of employees, on collective bargaining and on relationships with trade unions. In particular, its proposal for a National Convention on Employment and Labour Relations mirrors very closely the proposal in this report. We therefore strongly support that proposal and in the follow-up report to this paper will propose how that might be established and how it could generate consensus between employers and trade unions.*

## **1. The purpose of this report**

This report is the first of two that this team of authors intends to publish. This report aims to set out as a starting point for discussion with others a vision of what we believe a successful industrial relations and industrial democracy model would look like in Scotland. It contains information on how the UK currently performs, why industrial relations matter for everyone, what other countries

do better, how these practices might be translated in Scotland and some notes on the cultural transformation which would be required. However, it does not set out how to make the move to this kind of model of industrial democracy.

This is for one simple reason; the authors do not believe that this model can work unless there is widespread buy-in both from the employer side and from the employee side. If industrial democracy is to become a reality it must be on the basis of creating a system which works for both sides, brings benefits to both sides and meets the needs and aspirations of both sides. There is no point designing a system based on the principles of consensus and mutuality and then imposing it in a coercive way. We have started here to make the case for why we believe both employers and employees should find this approach welcome. We hope it can form the basis of further conversation.

Once people have had a chance to look at and debate the contents of this report we intend to produce a follow-up report. That will look not at the systems other nations have but at the process through which those systems developed. We also intend to look at processes of large-scale consensus-building to identify practices that will help to build consensus on this issue. We will then propose a process for bringing both sides together to create a system with the broadest-based support possible. This might involve some form of large national convention.

We believe that this is possible. There is no question that better industrial democracy in Scotland is possible and there is very large volumes of evidence that it is highly desirable for all. So we argue that Scotland should begin now to discuss how it can create an industrial model where employees are valued in the running of the companies for which they work and where employers have relationships that ensure the maximum productivity from their workforce.

## 2. Glossary of terms

Industrial relations and industrial democracy policies are seldom discussed in UK politics and some of the vocabulary may not be familiar. It will therefore be helpful to define some of the terms used in this report. These are:

- **Trade-Union Density:** The number of employees currently enrolled as members of trade unions as a proportion of overall employees.
- **Collective Bargaining Coverage:** A term referring to the extent to which employees are part of collectively negotiated agreements with their employer(s).
- **Employment Law:** The obligations the state puts on an employer when someone is contractually employed by them.
- **Industrial Democracy:** A term to refer to any kind of democratic employee-participation in company governance, at workplace-level or board-level or both.
- **Plant-level participation (or workplace participation):** The role of employees in company governance at their physical place of work.
- **Board-Level Employee Representation:** The representation of employees in company governance at the management level that is ultimately responsible for the overall

company. The extent of this representation and the powers they have vary depending on the country in question.

- **Works Council:** plant-level representation body of employees. Powers vary depending on the country in question.
- **Co-operation Committee:** A plant-level joint-body of employees and management to deal with the day-to-day affairs of the company. The Danish version of a Works Council.
- **Co-Determination:** Where a company governance body cannot take a decision without the mutual agreement of employee and employer representatives. The optimal example is in the German coal and steel industries where board-level representation is evenly split between employee representatives and employer representatives with an independent commonly-agreed chair, but it can also be used to describe a situation where a Works Council has the right to veto a management decision as 'co-determination rights'.
- **Company Governance:** The form of authority in a business or public service of any kind.

### 3. Why good Industrial Relations matter

Industrial relations matter because they have a tremendous effect on the success of a company, the success of the wider economy and the economic and social lives of the individuals that are involved in any business and/or any economy.

Bad industrial relations can contribute to failing companies, poor-performing economies, under-valued and vulnerable employees and interminable conflict between management and workers. Good industrial relations can help to produce successful companies, strong and dynamic economies, innovative and productive employees and positive co-operation between management and workers.

Any consideration of industrial relations can most readily be fulfilled by focussing on three specific factors:

- Trade unions
- Company Governance
- Employment Law

We are going to examine each of these factors in turn to outline how we can develop industrial-relations that can work for everyone.

#### Trade Unions

There is considerable evidence to prove that strong trade unions increase employment security and equality, but they are also good for businesses, when they are integrated into the industrial

relations process. A report by Asteriou and Monastiriotis (2001) that used data from eighteen OECD countries found:

“The interpretation of the theoretical model...suggests that unionised labour has - other things equal - been by around 19% ( $=0.214/1.115$ ) more productive than non-unionised labour.”

They concluded that:

“Our basic results provide robust evidence of a positive impact of unionism on productivity. Both the long- and short-run effects are positive and statistically significant, although we also offer some evidence suggesting that country-specific factors, like the strategies employed by national trade unions and the degree of co-ordination among them and between them and the employers, might play an important role at the short-run.

When workers feel more secure in their work and are able to stay in one job for a prolonged period of time they are more likely to:-

- have a better understanding of their work,
- believe in what they are doing and remain loyal to the company
- have more confidence to apply themselves and be more creative and innovative in the application of their work.

As Spiegelaire and Van Gyes (2012) have shown, workers who have been in long-term employment are more likely to feel that they have job security and are more likely to show evidence of innovative behaviour.

Short-term business strategies such as laying-off workers when times are bad and offering low-paid jobs with flexible contracts frequently result in high levels of staff turnover that are damaging in the long-run because they do not build up trust and commitment in the company and therefore waste the vast potential of their human resources.

As the German case study shows below, co-operative company governance structures like Board-Level Employee Representation and Works Councils are much more effective when underpinned by strong trade unions as they act as a check on executive power over bread-and-butter employee issues like wages and pensions, which allows the company governance structures to focus on how to advance the interests of the company collectively.

Neither should it be assumed that strong trade unions necessarily lead to industrial unrest. Danish trade unions are some of the strongest in Europe in terms of trade-union density and collective bargaining coverage, but their total ‘days lost’ to industrial action is not amongst the highest in Europe. As the European Industrial Relations Observatory reports of days lost to industrial action (2009 figures): “...would place Denmark around ninth/tenth on the ranking [European] with a normal number of working days lost.” (Eurofound, 2013). As the case study in Section 5 shows, Danish trade unions have built up a tradition of co-operative industrial relations for over a century, and are seen as important institutions by the Danish Employer’s Federation as much as by employees. As a result of this co-operative model problem-solving is addressed mutually and therefore fewer disputes tend to arise.

The low-strike figures in Britain are not evidence of a lack of conflict at work. The Economic and Social Research Council and the UK Commission for Employment and Skills carried out a ‘Skills and Employment Survey’ of over 3,000 workers and found that:

"52 per cent of workers were concerned about loss of job status. The biggest concern was about pay reductions, followed by loss of say over their job. Alongside this, just under a third (31 per cent) said they were afraid of unfair treatment at work... The research showed that job stress has gone up and job-related well being has gone down since 2006." (Osborne, 2013)

Britain has high rates of staff turnover and sick days lost, which is further evidence of workers not being in harmony with employers. The form of conflict in Britain today is more individual distress than trade-union collective action, but the conflict and disharmony is proliferating nonetheless.

Strong trade-unions also provide more representative bargaining partners for employers. The greater trade-union density of a workforce, the easier it is for employers to bargain directly with the legitimate representatives of the workforce. Employers often complain that when trade-union density is too small bargaining becomes complex as other mechanisms have to be found, often the other method is the laborious process of individual bargaining employee by employee.

Strong trade unions are the basis in which good industrial relations can be built upon. A shift has to take place in Scottish politics to see the broader positive impact trade unions have for society, not just for their members.

## Company Governance

UK company governance has been out-of-step with the rest of Europe for some time. As the statistics in Section 4 show, Britain has the second worst rates of employee participation in Europe. In the UK system, there is no legislative basis for employees to participate in the decision-making processes of the company in which they are employed at any level, and there are very few practical examples of this either. There are several deficits which arise from this model of company governance:

**Knowledge-deficit:** employees carry an abundance of knowledge on the operations of their work because they are the ones that operate it. Companies waste this knowledge if they do not integrate it into the governance of the company so that there is a regular process for employee-knowledge input. Employer's are also unaware of the concerns of employees unless they are regularly updated on them in a structured environment. The knowledge-deficit works in the other direction as well: employees need to know about the company accounts, about potential takeover bids, about future company strategy and more if they are to make a clear-headed and rational decision on whether the job is a viable or desirable proposition for them.

**Democratic-deficit:** employees play a vital role in the success of any company, and therefore just as the citizens of a nation-state get to vote because they are integral to the nation-state, so it should be for companies. Democracy can help shed light on previously secretive practises, like company accounts for example. It should be the democratic right of employees to be informed about all aspects of a company and to have democratic rights in accordance with that information. Trust and accountability for employers and employees can only blossom if the veil of secrecy is taken away from company governance.

**Ethical-deficit:** analysis of Danish management boards has shown employee-representatives are more likely to take the interests of the wider community and the environment into account, as well as employees, than shareholder-representatives are (Fulton, 2013). Companies have an ethical responsibility not simply to their shareholders, but to society as a whole. This is a principle that is written into many company governance codes in Europe, but not in the UK. It is a principle that it is easier to adopt in practise if employee-representatives have input into the running of the company.

**Innovation-deficit:** Employee-Driven Innovation (EDI) is a growing phenomenon in human resource management thinking: making use of the talents of your employees to challenge orthodoxies, achieve better quality, continuously improve and develop new practices is an approach that is gaining traction – given that it works and allows businesses to endure and grow. But, as Spiegelaire and Van Gyes (2012) point out, the connection between the importance of EDI and the form of industrial relations practised has been made on surprisingly few occasions:

“Literature on how to stimulate this Employee-Driven Innovation (EDI) or Innovative Work Behaviour of employees is booming. The context in which the employee works is an essential factor in explaining employee behaviour, and a crucial aspect of this employment is the ‘employee relationship’ between the employer and employee, which is formed through and by the Industrial Relations (IR) of the company. IR determines the conditions in which the employee is engaged and affects the climate at the workplace. Therefore, IR can rightly be considered to affect employee behaviour in the field of innovation.”

Spiegelaire and Van Gyes surveyed the literature relating to employee engagement by looking at the connection between Works Councils and new products/processes, but also the differences between Works Councils that are more and less engaged in the life of the company. They found that:

It can therefore be concluded that the presence of a Works Council alone does not automatically lead to higher levels of EDI, but an active Works Council engaged in good company IR does increase innovative behaviour of employees...”

Spiegelaire and Van Gyes find an even stronger causal link between direct participation of employees and EDI. Therefore it can be argued that a scale exists, whereby the greater intensity of employee democratic participation in their workplace the greater likelihood of innovative behaviour. Since the UK’s industrial-relations would be on the bottom-end of that scale, it is fair to say that UK companies are running a major EDI-deficit.

**Deliberation-deficit:** Deliberation between employee and employer in problem-solving and negotiation to come to shared outcomes can increase efficacy, stop conflicts from arising, help arrive at better conclusions and create loyal employees who want to work for the company. The recent Skills and Employment Survey in the UK found that “employees were more content and less anxious about job or status loss ‘where employers adopted policies that gave employees a degree of involvement in decision-making at work’.” (Osborne, 2013)

If the process for decision-making is ‘decision made by employer – decision accepted or rejected by trade-union – decision negotiated’ it is easy for conflicts to arise as each side gets set into hardened positions against one another where neither wants to back down. Instead, if decision-making can start from the point of joint discussion to come to shared outcomes that work for everyone, it’s much more likely that’s where the employer and employee will end up. Board-level participation and plant-level participation that involves systematic engagement between employee and employer institutionalises this process of deliberation. (This is further explained in section 7.)

The structures which will allow for a shift in company governance in Scotland are not new or unique, in fact they are common practise in the majority of European countries and are supported by EU Company Law, as the analysis of Board-Level Employee Representation in Europe in Section 7 outlines in depth. These are Works Council’s (or Co-operation Committee’s) and Board-Level Employee Representation:

- Works Councils are plant level-based employee bodies that have a range of powers (depending on the country in question) from consultation rights to decision-making/ veto rights over the day-to-day affairs of the company (for full explanation see Section 6). Having a workplace body in which the employees have a democratic participation into the operations of the company is of vital importance for a Common Weal industrial relations model. It means that there is a regular and permanent point of input into the process of decision-making. That avoids the alienating British experience of employees, that in the words of the late Scottish trade-unionist Jimmy Reid:

“...is the cry of men who feel themselves the victims of blind economic forces beyond their control. It’s the frustration of ordinary people excluded from the processes of decision making. The feeling of despair and hopelessness that pervades people who feel with justification that they have no real say in shaping or determining their own destinies.”

Done properly, Works Councils can be institutions that give workers some semblance of control over their everyday working lives.

- Co-operation Committee’s deal with the same issues as Works Councils but they are joint employee-employer bodies that attempt to come to conclusions together on workplace issues.
- Board-Level Employee Representation (BLER) refers to exactly what it says: the representation of employees at management/shareholder level. BLER rights vary across Europe, from co-determination in the German steel and coal industries where employees and employers have equal control over the company to consultation representation without voting rights in the Czech Republic. As the Danish and German case studies show in Sections 5 and 6, BLER allows employees full access to the highest-level of decision-making in the company and at the same time it allows employers to have the regular input of employees into the way the company is being run. It has helped to create more co-operative industrial relations, resolving potential disputes that could cause conflict amicably. Additionally, it takes away the veil of secrecy around company governance: all sections of the company have access to all information, and therefore accountability and trust can be built from that starting point.

BLER and Works Councils are not radical proposals for company governance in Scotland. They are the norm in Europe. As Section 4 shows, countries with stronger Employee Participation rights are the same countries that are hitting the EU targets for social and economic progress. The case studies below outline in more detail how and why employee participation in company governance is modelled to work for everyone in Germany and Denmark.

## **Employment Law**

To achieve a shift in Scotland towards industrial relations that work for everyone requires goodwill and trust on all sides. But it must also be under-pinned by employment laws that enshrine rights for trade unions, rights for employees and co-operative company governance structures. Without employment law, a race-to-the-bottom is always likely to occur: seeing an opportunity for short-term advantage, companies undercut other companies by using weak employment laws to their advantage.

The recent case of Ineos, where employer representatives bypassed the recognised trade-union, Unite, to hold direct meetings with employees over their proposed ‘survival plan’, is an example

of what is usually common practice being disposed off at moments opportune to one party. More so, the rapid rise of zero-hour contracts in the UK that employ workers without giving any commitment to the amount of hours they will work for is a case of a lack of employment laws leading to abuses of power.

Therefore laying out simple, clear employment legislation that sets a bare minimum of employee rights is vital. Additionally, legislation like in Germany and Denmark that mandates companies to BLER rights and Works Council/Co-operation Committee rights is necessary. The aim of a Common Weal industrial relations model is to build an environment of mutuality and consensus between employees and employers, but this is much easier if Government involves itself at the level of building the legislative framework that will allow for mutuality and consensus to flourish along with the emergence of worthy unifying goals.

## **4. The UK's industrial relations performance**

Scotland's employment laws and industrial relations legislation are currently determined at the Westminster level within the UK. It is therefore important to examine how the UK compares today on a European scale, in order to understand how Scottish industrial relations could improve in the future.

### **How does the UK compare to the rest of Europe?**

The European Trade-Union Institute (ETUI) have created a means by which European comparison of industrial relations (IR) can be objectively evaluated. The European Participation Index (EPI) is a multi-dimensional index of IR, which takes account of different forms of worker participation to produce a rounded evaluation and point of comparison.

Additionally, ETUI have used the EU's Europe 2020 strategy and the Lisbon Agenda that identifies the member-states' main indicators of social and economic progress to show a clear correlation between member-states with a stronger EPI score and member-states with a strong Europe 2020 and Lisbon Agenda performance. Worker-participation is shown to be a vital ingredient in achieving social and economic justice. Vitols (2010) explains how the EPI is calculated:

- "Plant-level participation – measures the strength of worker participation at the plant level. This includes three sub-indicators, including i) the probability of the presence of an interest representation body (including in smaller companies), ii) the existence of extensive information and consultation rights, including the right to veto or delay decisions with strong impact on employees like restructuring, closure, and mass redundancies, and iii) the competence to negotiate and sign legally binding agreements. Countries with stronger plant-level participation were coded with "1", those with weaker rights were coded with "0"
- Board-level participation – measures the strength of legal rights in each country for employee representation in the company's highest decision-making body. This classification was developed by the SEEurope network of ETUI and classifies countries in three groups: 'widespread participation rights', 'limited participation rights' and 'no (or very limited) participation rights'. The first group was coded with a "2", the second group with a "1" and the third group with a "0"

- Collective bargaining participation – measures union influence on company industrial relations policies, including an average of i) union density (i.e. percentage of workforce belonging to unions) and ii) collective bargaining coverage (i.e. percentage of the workforce covered by collective agreements). The data for these dimensions were based on country profile data collected for and displayed on [www.worker-participation.eu](http://www.worker-participation.eu).”

Through assessing the outcomes of EPI 2.0 (a slightly updated model from the original EPI but with the same basic index formulations), it is quite clear that Britain’s industrial relations are by no means the norm in Europe:

	$(C + (D/2) + ((E+F)/2)/3$	C	D	E	F
Country	EPI 2.0	Plant-Level Participation	BLER	Collective Bargaining Participation	Trade-Union Density
Denmark	0.83	0.68	2	0.8	0.8
Sweden	0.82	0.83	2	0.9	0.78
Finland	0.81	0.62	2	0.9	0.74
Slovenia	0.71	0.42	2	0.96	0.44
Luxembourg	0.68	0.52	2	0.6	0.46
Netherlands	0.67	0.45	2	0.89	0.22
Austria	0.63	0.21	2	0.98	0.35
Germany	0.61	0.41	2	0.64	0.22
Slovakia	0.59	0.43	2	0.35	0.3
Czech Republic	0.5	0.18	2	0.44	0.22
France	0.5	0.5	1	0.93	0.08
Spain	0.5	0.52	1	0.82	0.16
Hungary	0.49	0.26	2	0.25	0.17
Belgium	0.43	0.53	0	0.96	0.55
Malta	0.41	0.14	1	0.56	0.59
Ireland	0.38	0.29	1	0.35	0.35
Poland	0.37	0.35	1	0.35	0.16
Greece	0.37	0.04	1	0.85	0.3
Portugal	0.37	0.05	1	0.94	0.15
Cyprus	0.37	0.37	0	0.75	0.7
Italy	0.31	0.37	0	0.8	0.34
Romania	0.27	0.52	0	0.3	0.3
Estonia	0.23	0.52	0	0.25	0.11
Bulgaria	0.19	0.35	0	0.25	0.2
Latvia	0.18	0.35	0	0.2	0.16
<b>United Kingdom</b>	<b>0.16</b>	<b>0.17</b>	<b>0</b>	<b>0.34</b>	<b>0.28</b>
Lithuania	0.11	0.21	0	0.1	0.14

Britain scores second lowest of all European countries, 26th out of 27 (on the first EPI calculation Britain was 23rd out of 27), well below new EU member-states like Hungary and Romania.

The EPI results were then split into a top and bottom half – countries with stronger participation rights and countries with weaker participation rights – to examine the relationship between participation and the Europe 2020 social and economic progress indicators. The two halves are roughly approximate to one another in terms of their economic importance:

<b>Table 2: Comparative performance of countries with stronger vs. weaker worker participation rights (based on EPI 2.0) (Vitols, 2010)</b>		
<b>Europe 2020 Headline Indicator</b>	<b>Group 1: Countries with strong worker participation rights</b>	<b>Group 2: Countries with weak worker participation rights</b>
<b>Employment rate by gender, age group 20-64, 2009 (% of population 20-64)</b>	72.1	67.4
<b>Gross domestic expenditure on R&amp;D (GERD), 2008 (% of GDP)</b>	2.2	1.4
<b>Greenhouse gas emissions (reduction in baseline between 2003-2008) (Index 1990 = 100)</b>	4.7	4.2
<b>Share of renewables in gross final energy consumption, 2008 (%)</b>	12.3	6.1
<b>Energy intensity of the economy, 2008 (kilogram of oil equivalent per 1000 Euro)</b>	171.2	181.7
<b>Early leavers from education and training, 2009 (% of the population aged 18-24)</b>	14	16.1
<b>Tertiary educational attainment by gender, age group 30- 34, 2009 (% of the population aged 30-34)</b>	36.6	31.1
<b>Population at risk of poverty or exclusion, 2008 (%)</b>	19.1	25.4

The original EPI scores were also compared to the EU's 'Lisbon Strategy' indicators of performance with a similarly linear correlation of results:

<b>Table 3: The EPI and Lisbon Strategy Indicators (ETUI Benchmarking Working Europe 2009)</b>		
<b>Performance Indicator</b>	<b>Countries with stronger participation rights</b>	<b>Countries with weaker participation rights</b>
<b>GDP per capita in Purchasing Power Standards (EU-27 = 100)</b>	116.5	104.5
<b>Labour Productivity per person employed (EU-27 = 100)</b>	113.9	103.6
<b>Employment rate (total %)</b>	67.6	64.7
<b>Employment rate of older workers (percent)</b>	46.1	44.3
<b>Youth education attainment level - % of the population aged 20 to 24 having completed at least upper secondary education</b>	77.8	75.8

<b>Gross domestic expenditure on R&amp;D (percent of GDP)</b>	2.3	1.4
<b>Index of greenhouse gas emissions and targets - In CO2 equivalents (Actual base year = 100)</b>	92.7	103.3
<b>Gross inland consumption of energy divided by GDP (kilogram of oil equivalent per 1000 Euro)</b>	170	261.7

Both tables show that Britain's weak performance on worker-participation rights is a clear factor in wider weaknesses in social and economic development, according to the EU's own measurements. In factors directly relevant to the labour process, it's apparent that there is a relationship between weak worker-participation rates and labour productivity and employment rates.

There is therefore extremely strong evidence that Britain, sitting only above Lithuania out of all 27 European states calculated in the EPI 2.0, is damaging its economy from having such poor worker-participation rates. This is as damaging for business as it is for employees. Therefore it follows that an industrial relations policy in Scotland that significantly enhances worker-participation will be beneficial for both business and workers, and consequently the Scottish economy as a whole.

## **Board-level Employee Representation in Europe**

Board-Level Employee Representation (BLER) is another measurement that exposes a poor UK performance, especially when compared to countries with much stronger employee participation rates.

In terms of the pre-accession state entry EU-15 countries, only Italy, Belgium and the UK do not have some form of BLER rights. In a majority of European states, sixteen plus Norway (which isn't an EU member), BLER is a right anchored in national legislation. Out of these seventeen countries with BLER rights fourteen have voting rights for employee representatives in private and public companies.

Furthermore, BLER is supported in three separate EU Company Law:

- The 2001 European Company statute (SE – Societas Europaea),
- The 2003 European Cooperative Society statute (SCE – Societas Cooperativa Europaea),
- The 2005 Cross-border Merger [CBM] Directive.

The principles of BLER is supported in two separate EU treaties:

- The 1989 Community charter for fundamental social rights for workers states that "Information, consultation and participation of workers must be developed along appropriate lines."
- In Article 153 (f.) 'Treaty on the functioning of the EU' it states 'The Union shall support and complement the activities of the Member States in the following fields: [...] - Representation and collective defence of the interests of workers and employers, including co-determination'. (Conchon, 2012)

BLER is therefore supported in the EU legislative framework and in the majority of EU countries national legislative frameworks.

## **Employment rights in Europe**

The UK has some the worst employment rights, collective and individual, in Europe. The UK remains the only European country that allows individual workers to opt-out of the section of the European Working Time Directive which enshrines a 48-hour weekly limit on an individuals working hours. Excessive working hours is a major source of stress and ill health in Britain.

The UK and Poland are the only EU countries that have secured a special opt-out from the Charter of Fundamental Rights which was intended to make certain citizen and workers rights universal. The Charter of Fundamental Rights covers such employment rights as information and consultation within an undertaking, collective bargaining and industrial action, protection in the event of unjustified dismissal, fair and just working conditions and maternity and parental leave (Hall, 2007).

The UK has the third lowest maternity pay in Europe, only in front of Greece and Luxembourg (ibid, 2013).

## **5. Case Study: Denmark**

The country with the strongest worker participation rate according to the EPI 2.0 Index is Denmark. Danish industrial relations, therefore, provide a useful case study and point of comparison. Examining what Denmark has got right in industrial relations can help us understand what Britain has got wrong, and provide a model from which a Scottish industrial relations policy can learn.

The high levels of worker-participation in Denmark can be attributed to three factors: the strength of trade-union rights and collective bargaining agreements, the co-operation committees of employers and employees and worker participation on management boards. Each of these will be examined in turn.

### **Trade-Union Rights and Employment Law**

Denmark has very strong trade-union density and collective bargaining coverage. Of all employees, 67 per cent are in trade unions and 80 per cent of workplaces are covered by collective bargaining agreements (Fulton, 2013a). The basis for this trade-union strength is a clearly established framework that ensures trade unions are integrated into industrial relations from top to bottom: built on a tradition of mutuality between workers and employers which has lasted over a century. At the top, the LO (the biggest of the three main trade-union federations along with FTF and AC) and the Danish employers federation (DA) construct the basis for agreement premised on the right to organise for trade unions and the right to manage for employers.

- Agreements over pay and conditions are decided industry by industry and more often than not are devolved to the company level.
- It is obligatory for employers to negotiate with trade unions.
- Public-sector agreements are between the relevant unions and local, regional and national government.

In Denmark health and safety, working-time agreements, pensions, holidays, notice periods and so on are all subject to collective bargaining, and there is minimum requirements for much of this in employment legislation. The breadth and depth of collective bargaining in Denmark is therefore much greater than in the UK

The tradition of employers negotiating with trade unions is of vital importance to the high rate of collective bargaining coverage which in turn motivates high trade-union density. As a PriceWaterHouseCoopers (PWC) report on Danish employment law makes clear, the employer is not legally bound to partake in collective bargaining agreements, but not to do so would likely mean industrial action on the part of the trade-union and: "In practice, it will often be extremely difficult for an employer to conduct his business if the trade union has initiated industrial action. In many cases, it is advisable to meet the request." Once an employer has agreed a collective bargaining agreement "it is in practice very difficult to be released from the collective bargaining agreement" (PWC, 2009).

In Denmark:

- The right to elect a trade-union representative begins in any workplace with five or more employees.
- Typically, one trade-union representative is elected per fifty employees.
- In the public-sector, virtually all workers have a trade-union representative.
- In the private-sector, the rate of trade-union representation is normally dependent on the size of the workplace:
  - five per cent for those with between 50 and 99 employees,
  - 81 per cent for those with between 100 and 249 employees,
  - and 91 per cent for those with 250 employees or more. (Fulton, 2013b)

The normality of negotiation has historically been the case and can be traced back to the 'September Compromise' in 1899 when employer federations acknowledged the trade unions right to organise, and in turn the trade unions acknowledged the right of employers to manage.

Despite the predominance of negotiation, there are some employment laws in place in Denmark that enshrine workers' rights, as well as subscribing to EU labour regulation (Fulton, 2013b):

- The Employment Contracts Act obligates an employer to inform their employees of all essential employment contract terms. Failure to do so can lead to fines and compensation to the employee.
- The Holiday Act enshrines the right to twenty-five days of holiday annually, although this can be subject to collective bargaining agreement in which case The Holiday Act does not apply.
- Pregnant employees are entitled to four weeks leave before the child birth and two and a half months of maternity leave, with fathers able to take two weeks paternity leave.
  - After this time, each parent independent from one another are entitled to an extra six months leave that can be prolonged by another two and a half months if they so wish.

- Altogether, employees are entitled to 52 weeks maternity pay by central government. Female employees are entitled to 50 per cent of their salary for three and a half months, whilst there is no legal requirement for paid leave for male employees.
- Paid leave salary agreements are covered by collective bargaining agreements.
- If an employee on leave has their contract terminated and it cannot be proven by the employer that this was not related to the pregnancy/birth of the employee compensation of at least six-nine month's salary will be paid to the former employee.
- Working time should not exceed 48 hours. All other working time agreements are determined by collective bargaining.
- The Salaried Employees Act (SEA) entitles the employee to between one and six months' notice depending on the length of time the employee has been employed by the company.
  - Once again, collective bargaining agreements can supersede the SEA.
  - Employment termination must be reasonably justified due to the conduct of the employee or the circumstance of the employer.
  - If it cannot be justified the employer may be entitled to pay compensation to the employee.
- Employees are entitled to their full salary during sick leave.
- It is unlawful to discriminate against employees on account of their gender, ethnicity, religion, political belief(s), sexual orientation, age, handicap, national or social origin.
  - The breaking of The Discrimination Act by an employer would result in a fine or compensation to the employee.
- The Collective Redundancies Act requires employers to inform and consult employees before making redundancies.
  - The form of information and consultation is dependent on the size of the workplace, but there is government guidelines as to what form this should take.
  - Collective bargaining agreements on collective redundancies supersede the employment law. (PWC, 2009) Denmark's 'flexicurity' model means that it is relatively simple to let workers go.

Danish employment law outlines the minimum requirements for agreement between employer and employee. The expectation is that collective bargaining is the main means through which the conditions of work are dictated. So for example, there is no agreement on a national minimum wage in Denmark unlike in Britain, but in practise inequality is far greater in Britain than Denmark because of the strength of trade-union density and collective bargaining power in raising the wages of the lowest paid. It is expected that trade unions and employer federations come to agreement on the vast majority of industrial relations regulation and agreement in the spirit of mutuality.

This mutuality is not only underpinned by trade-union strength. Company structures, which are dictated by company law, in the form of co-operation committees and Board-Level Employment Representation (BLER) ingrain mutual relationships between worker and employer in Danish industrial relations.

## **Co-operation committee (CC)**

Most day-to-day industrial relations in work take place through the co-operation committee. The committee consists of an equal number of management and worker representatives. Of all the companies which should have a co-operation committee (they have to be set-up in any company employing over thirty-five people), 70 per cent do (Fulton, 2013c).

The trade-union representatives in the workplace are the first to sit on a co-operation committee from the employee side, and then other elected employees can also be put forward. On the management side, representatives are partly from board members and partly from supervisory staff. The committee is chaired by a management representative and the deputy-chair is an employee representative. The secretary is jointly decided. The committees are expected to meet six times a year, and extraordinary meetings can be called by either side if there is an issue that requires urgent attention. Trade-union representatives receive paid-time off to attend union-training courses which are usually paid for by a joint fund between trade unions and management.

The co-operation national agreement defines the purpose of the co-operation committees as "to promote cooperation throughout the enterprise, for the benefit of the enterprise as such and the individual employee" (Fulton, 2013c). CC's have access to all relevant company information. Financial projections, company accounts and business strategy should all be made available to the committee, as well as any other potentially significant planned changes, like new technology implementation. It should also be provided with data on equality in the company between men and women. The CC's also have consultation rights, however they do not have a veto on management decisions, unlike some work councils (which is the most common name for a body like the CC) in other countries.

However, it is expected that the CC receives information "sufficiently early to allow employees to put forward viewpoints, ideas and proposals...before any decision is made" (Fulton, 2013c). This has an important effect on the governance process, as rather than consultation following the British model of 'management takes a decision – workers are informed of that decision – management may or may not decide to take the workers response on board', consultation actually means deliberation: workers and management discuss *potential* changes, all sides are listened to and ideas put in, then decisions are made. In the final analysis it is still management who makes the decision, but the process of arriving at that decision involves a genuine deliberation between workers and management, which makes it less likely that conflict will arise between the workers and management once that final decision is made.

In turn, the employee representative also provide information. They inform the CC about working conditions at plant-level. There is therefore a mutual sharing of information on both sides which provides the basis for deliberation over the way forward for the company. The information also goes back the other way: management representatives, naturally, pass on information to the board and employee representatives are expected to keep the workforce in touch about the discussions of the CC.

One area "deliberately excluded" (Fulton, 2013c) from the CC, however, is collective bargaining agreements over pay, pensions, and so on, which is negotiated directly between the employer and the trade-union. If negotiations break down, the CC may have a role in trying to come to a

settlement, but it is the employer who makes the decision with the trade-union then deciding whether to accept that decision or not.

Health and Safety is dealt with through another employer-employee joint body, which has the power to stop work if they feel like the workplace is not safe. In larger organisations this is split into two-tiers: a lower-level health and safety group dealing with day-to-day affairs and a higher-level health and safety group dealing with strategic issues. Ultimately, the employer is responsible for health and safety, but it is expected that employees and employers co-operate for the benefit of all in the workplace.

## **Board-level Employee Representation (BLER)**

Employees in Danish Companies with thirty-five or more members of staff are entitled (though not obliged) to representation on management boards. Employee representation is equal to half that of management, and should be no less than two representatives. This, usually, equals one-third of the management board as a whole. It may be more than this if shareholder representatives are an odd number as it is then rounded up. So if there was seven shareholder representatives there would be four workplace representatives.

Employee representatives have the same rights and are entitled to the same information as shareholder representatives. However, they have no rights over industrial disputes between trade union and employer. Big companies tend to operate a two-tier structure of management, whereby the board has a supervisory capacity and executives run the business. Smaller companies tend to be directly run by the board. In both cases the board has powers to veto decisions.

As stated, BLER rights are entitled, not obliged. Employees take a straight 'yes/no' vote over whether or not to enforce BLER rights (Conchon, 2011). Employee-representatives are elected by all employees.

Of all companies in Denmark, 55 per cent have BLER. The BLER number rises the bigger the companies are:

"There are employee representatives on the boards of 13% of companies with fewer than 100 employees, 32% of companies with between 100 and 200 employees, 54% of companies with between 200 and 500 employees, and 65% of companies with more than 500 employees." (Fulton, 2013d (2011 figures))

Employee representatives, studies have shown (Fulton, 2013d), are significantly more likely to take the interests of wider interest groups into account than shareholder representatives, not just employees but also the local community and the environment.

The accountability of management to BLER is mixed. Conchon (2012) organised a survey of workers in Denmark looking at their experience of BLER and found that 53.6 per cent of workers felt the decisions were made outside board meetings without employee representatives.

Denmark was the first country to extend BLER rights to Danish companies operating in foreign locations in the Danish Company Act 2010, and have been followed by Norway and Sweden. This entitles workers of subsidiary companies to vote and potentially have seats on BLER, pending agreement of the general meeting of shareholders. If agreed, workers from one or several foreign subsidiaries can elect one or more representative to the board. If the foreign subsidiary is equivalent to 10 per cent or more of the company they are entitled to two worker representatives. (Conchon, 2011)

## **Employee-Driven Innovation**

In Denmark, the main trade-union federation LO has produced its own pamphlet on Employee-Driven Innovation (EDI) (2007), such is the importance placed on it by Danish workers. The preface makes it clear EDI is a central part of their "business and research strategy" as building a highly innovative workforce in a globalised world market is one central part of why the Danish workforce is highly competitive despite high-pay and high trade-union density, areas commonly seen in Britain as damaging to global competitiveness.

LO (2011) conducted a survey to examine the extent of EDI in Danish Companies. They surveyed 500 companies and asked the same questions to both management and shop stewards, receiving approximately 1000 responses:

"...about 50 per cent of the companies involve skilled and unskilled workers in the innovation process... when the unskilled/skilled workers are involved, this is most frequently done at interdisciplinary meetings and working groups...the survey further shows that employee-driven innovation fosters happy and satisfied employees...the companies view employee involvement as a way of strengthening user-driven innovation."

A virtuous circle can be identified in the outcomes of LO's survey: employees that have mechanisms in which they can participate in the active life of the company help to enhance company innovation which makes employees happier because they are involved in interesting, satisfying work and it helps the company because it improves the products/processes/services of their business.

## **Outcomes**

The Danish model of industrial relations is an important case study as it addresses common misconceptions about industrial democracy in the UK. It proves that high-levels of trade-union density and collective bargaining coverage can reduce industrial conflict and increase productivity if it is built on a co-operative industrial relations culture and legislative framework.

The Danish approach produces far more co-operation than conflict and this in turn contributes to higher productivity and employment rates. There is a symbiotic relationship between the macroeconomic model of promoting productive, well-paid jobs and the microeconomic model of co-operative, innovative industrial relations. And, of course, the wider repercussions of the strengths of the Danish economy are well known: Denmark ranks near the top of most social indicators of progress, including income and gender equality, and happiness. The Danish model of co-operative industrial relations is over a century old built out of the historic 'September Compromise', and therefore we can't expect to replicate it perfectly in Scotland: but we can identify its strengths and take steps to work towards them.

## **6. Case Study: Germany**

Analysing German industrial relations provides balance to the Danish case study as the strength of trade unions and the tumultuous industrial relations history of Germany make it much more like Britain than the Danish example. Yet, unlike Britain, Germany has created an industrial relations

system which provides the basis for the institutionalisation of workers representation in all tiers of company governance. Additionally, Germany has gone further than Denmark in the coal and steel industry, through a governance system known as 'co-determination' where employers and employees have equal weight on the management board, which is useful for an examination of the furthest extension of BLER in Europe. No one could consider Germany to be a peripheral or unsuccessful country, being the biggest economy in Europe and having weathered the economic crisis better than most, and therefore if it is proven that German industrial relations are significantly in advance of Britain, then the burden of proof rests with others to explain why Scotland shouldn't revamp its industrial relations away from the current British model towards the German model.

## **Board-Level Employee Representation and Co-Determination**

German company governance is based uniformly on a 'duality' approach, meaning a two-tier structure with a supervisory board and a board of executives. The executives run the company day-to-day. The executive board has to report to the supervisory board which has veto powers. In companies with 500 or more employees, BLER rights apply for the supervisory board. One-third are made up of employee representatives for companies with 500-2000 staff, but with companies over 2000 the ratio between employee and shareholder representatives is 50/50. Shareholder representatives still have the casting vote, as the chair is always from the shareholder side. However, in the large coal, iron and steel plants the chair is neutral – there is therefore an even split between workers and shareholders in the running of the companies. This is the most radical form of 'co-determination'.

One of the employee representatives in BLER is a management representative who is elected through their own senior management committee. There is also BLER space allocated specifically for trade-union representatives. Election of the rest of employee representatives is organised via elections involving all company staff and, in cases where this is unmanageable, via a delegates assembly.

The supervisory board usually has hire-and-fire powers over the executive board, and is entitled to full disclosure of information financial and otherwise. The supervisory board helps to define the company strategy, and its responsibilities are as much to the employees, the wider community and environment, as they are to the shareholders.

Employee and shareholder representatives are entitled to exactly the same rights. Voting is by a two-thirds majority. After the fallout from the financial crisis, in 2009 the supervisory boards were given rights over executive remuneration including pay and bonuses as well as being able to set a maximum level for variable remuneration, and to issue share plans. The official corporate governance code from 2009 reads:

"The management board is responsible for independently managing the enterprise in the interest of the enterprise, thus taking into account the interests of the shareholders, its employees and other stakeholders with the objective of sustainable creation of value." (Ibid, 2009)

The High Pay Centre (2009) interviewed German employees on supervisory boards to get their perspective on the value of BLER in Germany. The following is their findings from a variety of major German corporations:

"My expertise is to tell the board what issues really touch the workforce and what they think. I always say 'I won't tell you how to run a balance sheet, but if you want to know what the employees think, ask me,'" says Martina Klee, employee representative

at Deutsche Bank. The issue of women in management is currently pre-occupying much of the bank's workforce and the supervisory board has told the executives that more women must be promoted in the next two years.

From Volkswagen (VW) auto mobile company:

"It's not just about profit, there is a general understanding at VW that we don't shut plants: job security and profitability are the two goals of this company." The VW worker representatives then look at productivity gains to be made in German factories. They can talk to the workforce about short- time working and changing shift patterns to fit in with a temporary lull in production. Since the workforce has a voice at the top table, these agreements can be made in a collaborative environment. "In an informal way, we have to make strategy in the board transparent to the workforce," said Mr Meine. Hans-Peter Fischer who is the management representative on the VW board agrees.

"Employees are the ones who ask the best questions as they have direct knowledge about running the company. How do shareholders know what is going on in the factory? They have to rely on reports from the executive directors."

From the rail company Duestche Bahn:

Christoph Danzer-Vanotti who sits on the supervisory board of the German state-owned rail company, Deutsche Bahn, as a shareholder representative, points out that when the rail operator had to cut 150,000 jobs over a 10-year period, it could agree this with the employee side of the board. This meant there were no lay-offs, but that the workforce was reduced through early retirement and re-deployment. He has worked at Eon which has a large UK arm where he says the relationship with the union was more confrontational, but there was a huge turnover in staff and it was easier to reduce the workforce. Many employee reps talk of the need to work as partners with the managers and shareholders to ensure the best decisions are taken for the company and its staff.

BLER works best in combination with strong trade-union representation, it should not be seen as an alternative to it. The High Pay Centre argue that :

The supervisory board system appears to function smoothly in workplaces with more homogeneous union representation such as the IG-Metall union. In the banks where union membership is much weaker, and there are a number of smaller, pro-management unions, it is more challenging.

The divergent experiences of workers in the banking-sector and in the metal industry are case in point:

Beate Mensch from the pan-banking sector Verdi union who sits on the board of Commerzbank, says: "Generally speaking, unions were never very strong in the banking and finance sector. The union culture was based on social partnership, but that has changed since the financial crisis and there is much less trust between employees and management. It makes it much more challenging to make the supervisory board system work."

The system of collective agreements on pay is also weaker in the banking sector and employee representatives are often more hostile towards the union representatives. "Sometimes the internal employee reps don't dare to vote against the management.

The external union reps have differing views because they look beyond the company, at the sector and even at society as a whole," says Ms Mensch.

"It is quite hard to keep the balance, we don't want to destroy the company, but we have to try and represent employees. There is a danger on the supervisory board that the management may try and win us over and we have to be careful about that."

Martina Klee who is not a union member and sits on the Deutsche Bank board as an employee representative says: "In the financial sector, unions want to get involved in issues they have no idea about."

Deutsche Bank is currently integrating Postbank, a German- based savings institution which is heavily unionised. This is causing some culture clashes.

In the metal industry, where the IG Metall Union has nearly full trade-union density, the attitude of employee BLER representatives is completely different:

Hartmut Meine from the IG Metall union says: "The structure of co-determination works better the stronger the union is. The structure on its own is important, but that's not enough. The union provides a lot of training and back-up for its board members." Union representatives commit to pay 90 per cent of their board fee back to the union in order to pay for training and support. Much of this goes to fund the Hans-Boeckler Foundation, a research organisation that provides expertise and training to back up the employee representatives.

Whilst the system is based on 'mutual trust', employee representatives have had some clearly identifiable 'victories' over executive power, including reducing the Chief Executives pay at Volkswagen and imposing a cap on executive pay at Deutsch Bank. Often these agreements involved many months of debate, with executives threatening to leave for other jobs, but they eventually came to negotiated agreements. Martina Klee, Deutsch Bank employee representative, said:

"We discussed a cap on pay for several months before we could agree. It still sounds too high to me, but the CEOs did not like it and said they could earn more elsewhere. Well, why did they take the job then?"

There was considerable resistance from German employers to co-determination when it was first introduced in 1951, with employers attempting to find ways round the law. But the benefits of co-determination to productivity and creating a holistic work culture have, especially since the financial crisis in 2008, began to outweigh the negatives and there has been notably less effort on the part of employers federations to undermine the legislation. Since its introduction in 1951 there has been regular additions to the co-determination system, most important being in 1975 when all companies with over 2000 employees had to agree to co-determination.

The SPD and Die Linke have submitted proposals to the *Bundestag* for a further extension of co-determination rights (Conchon, 2011). At the same time, there has been attempts to undermine co-determination by low-pay employers like Aldi and Lidl.

## **Works Council (WC)**

Whilst the supervisory board deals with management-level decisions for employees, workplace decisions are dealt with by the Works Council.

Under the Works Constitution Act most recently updated in 2001, a Works Council can be set-up in any workplace with five or more employees. Works Councils, therefore, are the right of all workers in Germany except in the case of the very smallest workplaces.

Works Council's, unlike the co-operation committees in Denmark, are made up entirely of employees. The size of each WC is dependent on the size of the workplace, with one Works Council representative for a workplace of five-20 up to 15 Works Council representatives for a workplace of 1,000-1,500. Whatever sex is in a minority in the workforce must be represented in proportion to its presence in the workforce on all Works Councils with more than one member. This was introduced in order to enhance the number of women on such councils

A Works Council is tasked to ensure that employees have an input into the everyday running of the workplace, their official legal basis is to work with the employer "in a spirit of mutual trust... for the good of the employees and the establishment" (Fulton, 2013f). This is therefore separate from the role of trade unions, who are solely responsible for their members' interests. In practise, however, trade-union representatives are often Work Council representatives too.

A Works Council is entitled to 'participation rights' and 'co-determination rights'; the strength of their rights determined by the type of issue at stake. So there are issues where the employer should inform and consult the Works Council to get their viewpoint (participation rights), and there are issues where the employer must get the agreement of the Works Council for a decision to be taken (co-determination rights).

Works Council's have co-determination rights over many social and employment contract issues in the workplace, whereas they are limited to participation rights when it comes to economic issues. So the organisation of hours, holidays, wage payment mechanisms, workplace training and workplace surveillance the WC has co-determination rights. In 2001 it was agreed that Work Council's would also have shared responsibility for environmental matters with the employer.

On economic issues, the WC has participation rights: it is expected that they are informed of all relevant information with regards the finances of the company, and if any changes are to be made they should be consulted before the changes are implemented and their feedback should be taken into account. Since 2008, Works Councils also must be consulted on the intentions of any investors in the company and inform them of the impact of any takeover or potential takeover on the company in advance. In workplaces with over 100 employees, the WC can set-up an economic committee to specifically address the financial issues of the company.

On employment issues like equal opportunities and grading and re-grading the employer must consult the WC first. The employer has the right to dismiss employees after consultation but, as the former head of Works Council's Department, Heinrich Ortmann, explains:

"The employer is also required to agree to special expenditures for unavoidable disadvantages [to employees] within the framework of a so-called 'social-compensation plan'. This co-determination right held by a Works Council means that in all companies where a works council exists, employees cannot be dismissed or employed in another capacity without an agreement which reduces the consequences for them." (Ortmann in Page, 2011)

Ortmann adds that in recent years there have been efforts by trade unions to tie Works Council into state employment programmes so that if a job loss does happen they move seamlessly into a "specially aimed training measures" to regain employment, the result has been:

"...so successful that sometimes up to 50 per cent of employees, depending on the industrial sector and qualifications they hold, who would sometimes lose their jobs, find employment elsewhere." (Page (Ortmann), 2011)

Collective bargaining issues should be left to negotiation between trade-union and employer; however in practise because Works Council's are often majority trade-union representatives the Works Council's can take up this function from time to time. Ultimately, however, the responsibility falls on trade unions to represent employees interests.

If conflicts arise between the WC and the employer in any field where co-determination rights are applicable, they can be decided by arbitration through the Labour Court. Elections take place every four years and candidates are nominated by groups of individual employees or by trade unions. A separate Works Committee is required for health and safety, and in Works Council's with over nine members (equal to over 200 employees) another works committee must be set-up to deal with day-to-day affairs. The bigger the workplace, the more likelihood there is of a Works Council in practise:

"...in 2011, only 10 per cent of all eligible workplaces had a works council in West Germany (nine per cent in the East), but they covered 44 per cent of all employees in the West and 36 per cent in the East. In workplaces with more than 500 employees, 88 per cent had works councils in West Germany and 92 per cent in East Germany." (Fulton, 2013f)

In Staff Council's (which are the public-sector versions of Works Council's) the rates are slightly higher (Fulton, 2013f).

## **Trade Unions and Collective Bargaining**

We shouldn't paint too rosy a picture of German industrial relations: trade-union density is actually lower in Germany than in Britain. The strength of co-determination laws provide some representation for non-unionised workers that their equivalents in Britain wouldn't have, nonetheless low-level of trade-union density, as discussed above, has the effect of weakening forms of employee participation.

At the same time, collective bargaining coverage is significantly higher in Germany than Britain, 61 per cent in West Germany and 49 per cent in East-Germany (Fulton, 2013g). Therefore although less employees are members of trade-unions than Britain, the importance of trade-unions to German industry is significantly higher. Half of employees not directly covered by trade-unions work in industries whereby collective bargaining agreements are taken into account when setting terms and conditions for all of their employees (Fulton, 2013g).

Collective bargaining normally takes place at industry level, which creates a clear division of responsibility between company issues which are dealt with by co-determination boards and Works Council's and industry issues which are negotiated between trade-unions and employers federations.

Industry collective bargaining agreements are regional, rather than national, due to the highly federalised structure of Germany. This means that there can be differentiations between regions over pay and conditions, however most regions are usually the same or similar. The exception is the former East-Germany region, where pay is significantly lower.

Collective bargaining agreements are legally binding. Up until recently, an employer could only sign one agreement with employees. After a court hearing in 2010, this has been changed so that

employers can potentially sign multiple agreements. This could potentially lead to a fragmentation of collective bargaining, as the German negotiations system had historically operated on the basis that agreements signed with the relevant trade union were general agreements for the employees in that respective company/industry (Fulton, 2013g).

Industry-level collective bargaining has shown signs of breaking down too. Through 'opening clauses', industry agreements have left space for company-level flexibility based on their particular circumstances (Fulton, 2013g). There has also been a growing trend of employers leaving employer federations. This has pushed many agreements to the company-level, where Works Councils have, in practise, started to take on more responsibility for collective bargaining agreements. As mentioned above, ideally the Works Council would be able to focus on areas of co-operation with employers rather than direct representation of employees and negotiation with employers, but in practise this division of responsibility is coming under strain.

## **Outcomes**

German industrial relations in many ways surpasses Denmark in terms of the integration of workers into the process of decision-making at plant level and board-level, if not in practise then certainly in legislative terms. The co-determination model emerged in 1951 after workers in the coal and steel industries threatened to go on strike against what they saw as employers who were in league with the Nazis; but it has since proven to pass the test of time. All sides emphasise that this has taken time to master and a lot of compromise has been necessary to make progress. It does not happen overnight. But most agree that the effort has been worth it as there is considerable gain to be made for all sides.

The recent financial crisis put it to the test, but there was considerably fewer redundancies in German companies than others. That isn't just down to co-determination, wider macroeconomic factors like the fact that Germany is a strong export economy that creates high-paid, secure jobs is important too, but the examples given above prove that the strength of employee participation played its part. Germany is one of the most dynamic and productive economies in the world and is looked upon as virtuous by many Scottish industry leaders: why not in industrial democracy too?

## **7. A Common Weal Industrial Democracy Strategy**

The following is an outline of the sort of measures that could be implemented in Scotland and the sort of culture shift that is required to build industrial democracy into Scottish industrial relations. The proposals are not meant to be an exact prescription. They are suggestions to make explicit the sort of change that is required in Scotland.

Employment law is not a devolved matter, and therefore constitutional change in the form of devolving employment law to Scotland or independence would be required if a 'Scottish solution' to industrial relations is to be found.

### **Trade-Union and Employment law**

A Common Weal industrial democracy strategy must start from the foundation of strong trade unions, and a Scottish legislative framework must be built in order to support this. Allowing all

workers the right to trade-union recognition no matter what percentage of trade-union density in the workplace should be the starting point. Employers should have to negotiate with recognised trade unions to come to collective bargaining agreements over pay, conditions, holidays, working-time agreements, pensions and notice periods.

Sectoral collective bargaining coverage in Denmark is often devolved to the company level because of the strength of trade-union to employer negotiation, but further fragmentation of bargaining agreements in Scotland would not be advisable. Industry-wide agreements would be the most suitable.

Issues like maternity, paternity and sick leave and health and safety regulation should be covered by universal Employment legislation. Employment legislation should also cover the minimum requirements for collective bargaining agreement issues, like in Denmark.

Rights on dismissal are a more complex issue. The Nordic 'flexicurity' model of having high-levels of income security through well-paid welfare for those out of work and low-level of employment security allow for a highly dynamic economy, but in Scotland where long-term unemployment has been high for a long period of time (and growing) and income security low it is not a model that is easily transferable to the Scottish context. A future Common Weal paper is going to deal with the issue of income security which includes employment contract rights, suffice to say we start from the point of view of a negative attitude towards zero-hour contracts. We can say here that all employers should be obliged to explain clearly an employees contract and the contractual rights entailed with that before they begin work.

Employment Law on rights on dismissal should require employers to provide rigorous explanations for why a worker is dismissed, and if they are not found penalties and additional compensation should be authorised. A process in which employers have to exhaust all other options before dismissing an employer should have to be met, and before the employee is dismissed a 'social-compensation plan' like in Germany should be fully worked through so that the employer helps the employee with training and finding new work. Here, the role of Works Council's (or co-operation committees') can play an important role and should have to sign-off on the 'social-compensation plan' for the dismissal to be permissible. Employees should be entitled to minimum one to six months notice depending on the length of time they've worked at the company, like the Danish system.

All employers should have to pay maternity and paternity leave, with small and medium sized businesses able to pick up tax breaks to make up for lost income. The standard rights against all forms of discrimination should apply, with severe penalties for employers found to break them.

As the German model shown, Works Council's and BLER work better when trade unions are stronger, and it is possible for a clear division of responsibility as the trade unions deal with collective bargaining issues that are employee-only issues and the Works Council and BLER deal with issues that are both employer and employee issues. As the International Labour Organisation (ILO) have pointed out:

"This is reflected in a provision of the ILO Workers' Representatives Convention, 1971 (No. 135), which states that where both trade union representatives and elected representatives exist in the same undertaking, measures shall be taken to ensure that the existence of those representatives is not used to undermine the position of the trade union (Article 5)." (Ozaki, Trebilcock, 2011)

If for whatever reason agreement cannot be found between employers and employees a strong, independent arbitration route should be available. In the rare occasions where this route fails,

employees should have the right to withdraw their labour with immediate effect on the basis of a simple majority vote, and have the right to picket.

Domestic employment law must conform with the International Labour Organisation conventions and the European Convention on Human Rights.

## **Works Council's (or co-operation committees)**

We propose a combination of the Danish Co-operation Committee and the German Works Council. The element of co-operation between employee and employer over the issues affecting the day-to-day running of the workplace has the added advantage of placing both into regular engagement with one another, whereas the German Works Council is employee-only with management decisions passing through the Works Council before being turned into action. The latter has the advantage of being a space for employees to deliberate freely, but the co-operation model has the advantage of being a thorough-going pedagogy between employer and employee, meaning that they have to collectively come to shared solutions (discussed further below). This helps to build trust. Therefore given the fact that this would be a major shift for Scottish industrial relations, we think the shared committee would be advantageous.

However, we believe it is important that the co-operation committee model from Denmark has the powers of the German model, i.e. the ability of the employee representatives on the committee to be able to have co-determination rights on certain decisions. It is important that the body is not purely a consultation process – it should also have the ability to participate in forming company policy. Therefore the right to have co-determination powers over organisation of hours, holidays, grading and re-grading, employment contract changes (which aren't subject to collective bargaining agreements) and workplace training and surveillance are vital, like in Germany. On economic issues, they should have full consultation rights including full disclosure of company accounts and executive pay.

Co-determination rights of course works both ways, with management representatives able to veto employee representative proposals. The aim is to encourage consensus. Co-operation Committee's should be mandatory for workplaces of 35 or more employees in all sectors.

The number of representatives should increase incrementally with the size of the workforce, with an equal number on the management and employee side. Two for 35-50, three for 51-100, and so on. The deputy chair and chair should be rotational between employee and management representatives.

Employee representatives should be given fully-paid facility time for training, which could be co-ordinated by a joint body made up of experienced people from trade-union and management backgrounds. Responsibilities would include consultation with employees and taking employee concerns to the committee. Management and Employee representatives would be legally obliged to bring all relevant information to the committee.

Co-operation Committee's should be applicable to all companies with 35 or more employees, including those with headquarters outside of Scotland. This may entitle them to less rights of information as they do not have BLER, but it should still entitle them to all relevant information at the plant-level.

The Works Constitution Act in Germany is an addition, rather than part of, Company Law in Germany. We would propose something similar to integrate the co-operation committee as a mandatory part of company governance, which we would perhaps call the 'Industrial Democracy Act'.

## **Board-level Employee Representation**

Board-Level Employee Representation should begin at companies with 35 employees or more. All board representatives should have equal rights. The number of board representatives vary from country to country; we would argue that the debate over number of board members should start at one-third.

One employee representative should be delegated by the recognised trade-union, one should be a representative from the Works Council and the rest should be directly elected by all employees. If less than three employee representatives are authorised, they should all be elected directly from the employees. All employee representatives should receive the same rights to training as in the case of co-operation committee representatives. Their responsibilities would include consultation with other employees within the limits set by board confidentiality agreements.

Scottish companies with plants abroad should also allow for their subsidiary plants to have BLER rights. Companies headquartered outside of Scotland should allow for employee representation at their highest decision-making body stationed in Scotland. In legislative terms, this could be part of the same 'Industrial Democracy Act' as the co-operation committee.

## **Note on Co-operatives**

Co-operatives and social enterprises have not been discussed in this paper. They will be discussed in a future paper. A report on employee right to buy options is also forthcoming.

## **8. Cultural transition**

Legislation alone cannot achieve better industrial democracy; it also requires a change in culture.

### **From conflict to co-operation model – a task-focused approach to negotiation**

Legislation provides the foundations for a Common Weal industrial democracy strategy, but if it is built on sand it will crumble. Scotland and the UK as a whole, unlike Denmark, does not have a history and tradition of co-operative industrial relations, and therefore it will require training, education and the goodwill of those on all sides to encourage the sort of transition that is required to move from a conflict model, where vested interests are pitted against one another, to a co-operation model where common interests are sought out and built upon. The latter model needs a whole new way of thinking to make industrial relations work.

To do this we need to explain the processes of negotiation and problem-solving in the UK conflict model of industrial relations and how thinking needs to change to make a co-operative model work.

Very often the negotiations around proposals get stalled not on the substantive proposals being considered but on pre-conceived positions that once established are difficult to move from. This plagues many organisations, both in the private sector and within public services. It has often been heard about management and the unions that "they have more in common than separates

them”, yet despite what might be considered common ground, disputes and arguments are given room to flourish. This statement that they have more in common than separates them, whilst in essence true, reinforces the fact that whilst there must be differences between those in a management role and those in a representative role, these differences can and often do lead to unnecessary divisions and acrimony, when a consideration of common benefit might avoid that.

A co-operative approach could change this. The idea being that if collectively the negotiators have an agreed set of goals, then the process of getting there will be more readily achieved if all the players are moving there together. Clearly this cannot be achieved if any one part of the organisation is having a negative impact on another. This does not however mean that there must be a consensus on all occasions, simply that all parties to any problem or proposal should find the way that best addresses the needs of those other parties, sufficiently enough to allow them to accept the proposed solution.

Fisher and Ury (1983) in their book on approaches to negotiation refer to the alternative as “getting to Yes”. They see positional negotiation as being inefficient and advocate the alternative as separating the people from the problem, allowing a focus on interests rather than position. Taking a task focussed approach moves this a step further by suggesting that the focus should be on what it is that we are trying to achieve.

Currently a typical proposal will start with a management decision to take forward their concept. This will be formed up into something more tangible, usually a paper proposal. At some stage this proposal will be presented to the union representatives, who will study it and highlight areas where they have questions, concerns or alternatives.

When the two sides meet to discuss this, there will always be a natural and quite understandable tendency for management to defend positions that have been taken and work that has already been done. However, it is also natural for the Union to see such a reaction as being dismissive of the Union’s suggestions.

At this point crucially it should be noted that the focus of all attention is the paper proposal, it is seen as being attacked and thus needs to be defended, it is seen as being defended therefore it is being attacked. Both parties are focussing on the written word and not the original concept.

A task-focused approach seeks to avoid this focus on the documentation and instead maintain the spotlight on what it is that we are trying to achieve. This works when both sides actively seek to avoid position taking and are looking rather to find a way to allow all contributions to shape the original concept, in such a way as to achieve progress. By allowing the parties to highlight their concerns or points that might cause them problems early in the process, it may be possible to design a solution that can encompass enough for both parties to agree on. In order to do this it may require innovative suggestions and solutions that are borne out of a more creative, problem-solving mind-set.

This form of approach to progress correlates well with a co-operative model in that; where the aspirations and goals can be set in partnership, the practical approach to these can be delivered by task-focussed thinking.

Within any proposal there will be parameters that traditionally confine the negotiations. Such things as, for example, a budget that management has set or a condition of service that is contractual. Where these might lead to difficulties in a more confrontational negotiation, the task-focussed approach would be to identify as many potential solutions as possible. The practical application of this requires both parties to avoid taking positions based on their preconceived ideas and to instead consider all possibilities. There are very often solutions available that would previously

not have even been considered. Or the solution is derived from an amended proposal, where the original suggestion might previously not have even been put forward.

Where a solution cannot initially be seen, it is possible to continue the process by concentrating on establishing criteria against which a proposed solution might be judged. There is obviously a whole range of options available here but rather than breaking up the negotiation because agreement cannot be reached, criteria can be agreed and set, with the focus now turning back to finding solutions and to problem solving. If time and effort are put into agreeing the criteria, then these can be used to effectively arbitrate and judge subsequent proposals.

The task-focussed approach is about those conducting the discussions having enough freedom and authority to explore avenues that might previously have been closed off, in an effort to get to common agreements, where both parties have sufficient benefit to make progress desirable and to get the job done. This form of working is not restricted to set piece negotiation but should rather form the basis of how the different constituents of company governance should interact.

The traditional approach of a reactive, positional, often entrenched and very defensive negotiating set up cannot deliver the optimal result as that would require both sides to give ground. The objective of most negotiations is get as much as possible, whilst conceding as little as possible. Many decisions are ultimately made without consideration of all of the facts. Management will exaggerate or skew financial facts, or indeed not even share information. Unions will make demands knowing that when they are knocked down, as long as they get more than some secret figure, they will have succeeded.

Scotland should not and does not have to continue to adopt the old ways of working and slipping back into a routine where the potential for industrial conflict outweighs the potential for industrial relations progress. By making changes to the way industrial relations operate to a more co-operative, problem solving culture it will be possible to develop a dynamic collaborative approach to achieving the aspirations of business and unions, to the benefit of private enterprise, public services and the communities that rely on the products, employment and services provided.

This movement to a culture of continual improvement can only be achieved within an environment of trust. We are currently very far away from having that environment and it will need a conscious effort to overcome traditional scepticism and misgivings. Developing a task-focused approach to industrial relations and problem solving is one element of that. It will require commitment and support as well as training, coaching, mentoring and practice from all who participate, however the potential improvements to industrial relations could be significant.

## **From conflict to co-operation model – redefining our goals**

Scotland needs to play a role in starting to build a new global consensus to redefine our goals and evolve our economic systems. As a starting point we need to consider:

- Designing systems that can meet the worthy goals of the people it serves
- Involving all the legitimate and relevant stakeholders in the work of improving that system.
- Committing everyone to continuous improvement in pursuit of the goals.
- Re-designing systems and learning lessons from elsewhere that could help to make the goals more achievable.

- Keeping the whole process under statistical control with baseline data and time series data showing progress and the impact of change.
- Double loop learning where every problem is used as an opportunity to learn by delivering both a solution to the problem and its underlying cause.

As the famous statistician and consultant Edward Deming considered, we need a systematic programme of improvement in how our economic systems operate. A new industrial relations model can be at the forefront of this change because:

It has historically been at the crux of divisions within nation-states in terms of class and vested interests. If we can overcome entrenched interest groups at this point we can overcome them anywhere.

It encompasses the question of what we work for – which is philosophically fundamental to any attempt ethically to transform our mode of life. Do we just work for ourselves and our families, or is work about those we work with, the wider community and environment too?

It addresses the issue of forms of property ownership and our social relationship to them. As Matthew Crawford (2009), author of an award-winning book on the value of work, writes that:

“It is time to dispel the long standing confusion of private property with corporate property. Conservatives are right to extol the former as a pillar of liberty but when they put such arguments in the service of the latter, they become apologists for the ever great concentration of capital. The result is that opportunities for self-employment and self-reliance are pre-empted by distant forces.”

The Common Weal mantra that ‘to build more we need to share more’ perfectly encapsulates the sort of goals that our economic systems should be built around, and the sort of industrial relations that will help work towards those goals. By this we mean ‘sharing more’ in the broadest sense: socially, economically and, crucially, in governance terms. In order to redefine goals it is necessary to revise and expand the community which has the capacity to participate in forming those goals: corporate capitalism at its worst makes a colossal waste of all human critical and creative capacities when their participation in work is strictly restricted to following company manuals with no space for engagement and continuous improvement.

The UK Corporate Governance Code has nothing to say about companies’ responsibilities to those beyond their shareholders, in fact it contains no statement of principles whatsoever. Scotland can create a Corporate Governance Code that instil ethical and social principles. Even Lithuania, the one country that scores lower than Britain in the Employee Participation Index in Section 4, has a reference to ‘employee participation’ in its corporate governance code, unlike Britain: “Examples of mechanisms of stakeholder participation in corporate governance include: employee participation in adoption of certain key decisions for the company” (ibid, 2008).

The idea is to get stakeholders to think in terms of ‘encompassing organisations’ rather than ‘narrow organisations’. ‘Encompassing organisations’ are:-

- organisations of scale
- that see the bigger picture,
- appreciate the overall common good and

- have strong incentives to be, from a general point of view, prudent.

As the American economist Mancur Olson (2008) describes it:

“Encompassing organizations have some incentive to make the society in which they operate more prosperous, and an incentive to redistribute income to their members with as little excess burden as possible, and to cease such redistribution unless the amount redistributed is substantial in relation to the social cost of the redistribution.”

‘Narrow organizations’ are likely to behave in the opposite way to Olson’s description: with self-interest and a cavalier approach to the common good. Getting companies to think differently about success, how it’s achieved and how it’s defined is necessary to make a co-operative model of industrial relations work.

## Conclusion

The case for reform of industrial relations and industrial democracy in Scotland is strong. This report has shown that there are great benefits to the individual, to the enterprise and to the wider economy of achieving positive industrial relations. It has also shown that virtually any system (in line with an advanced European nation) other than the one we have would be an improvement with the UK’s performance measurably woeful. It has shown that whether it is a successful small economy like Denmark or a successful large economy like Germany, it is absolutely possible to create an industrial democracy model which is both participative, effective and consensual. It has then outlined what that model might look like if developed in a Scottish context and explained some of the cultural transitions that would be necessary to achieve this.

The aim is to escape the British tradition of seeing industrial relations either as a process of trade unions ‘beating’ management or management ‘beating’ trade unions. Ultimately, if Scotland is to be economically successful and is to create a better-paying, more innovative, more productive and more successful economy, this new approach to industrial democracy is essential.

We are adamant that this should not and need not be a proposal which either side – employer or employee – should feel to be a threat. A national process of bringing sides together to explore and agree a route forward should be the first step. It is our belief that real progress can be achieved quickly.

The potential benefits to all of achieving this are so great and the impact of failure so serious (as we have seen at Grangemouth), it is time this was seen as an urgent issue in Scottish political and economic debate.

## References

- Asteriou, D, Monastiriotis, V (2000). "Trade-Unionism and Growth: A Panel Data Study" The University of Reading and London School of Economics joint-study. <http://www.reading.ac.uk/Econ/Econ/workingpapers/emdp429.pdf>
- Conchon, A (2011): "Board-Level Employee Representation Rights in Europe: Facts and Trends" European Trade-Union Institute.
- Conchon, A (2012): "Current Situation in Europe: Overview of National Rights" European Trade-Union Institute.
- Crawford, M B (2009). "Shop Class As Soul Craft: An Inquiry Into the Value of Work" Penguin.
- Eurofound (2013): "Denmark: Industrial Relations Profile: Industrial Relations" [http://www.eurofound.europa.eu/eiro/country/denmark\\_4.htm](http://www.eurofound.europa.eu/eiro/country/denmark_4.htm)
- Fisher, R, Ury, W L (2011). "Getting to Yes: Negotiating Agreement Without Giving In" Penguin.
- Fulton, L (2013a). "European Trade-Union Institute." [http://www.worker-participation.eu/National-Industrial-Relations/Countries/Denmark/trade unions](http://www.worker-participation.eu/National-Industrial-Relations/Countries/Denmark/trade%20unions)
- Fulton, L (2013b). "European Trade-Union Institute." <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Denmark/Collective-Bargaining>
- Fulton, L (2013c). "European Trade-Union Institute." <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Denmark/Workplace-Representation>
- Fulton, L (2013d). "European Trade-Union Institute." <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Denmark/Board-level-Representation>
- Fulton, L (2013e). "European Trade-Union Institute." <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Germany/Workplace-Representation>
- Fulton, L (2013f). "European Trade-Union Institute." <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Germany/Board-level-Representation>
- Fulton, L (2013g). "European Trade-Union Institute." <http://www.worker-participation.eu/National-Industrial-Relations/Countries/Germany/Collective-Bargaining>
- Hall, M (2007). Mixed reaction to 'opt-out' from EU Charter of Fundamental Rights. EuroFound. <http://www.eurofound.europa.eu/eiro/2007/07/articles/uk0707049i.htm>
- Hargreaves, D, Hildyard, L (2009): "Workers On Boards: Interview With German Employees Directors." High-Pay Centre and Friedrich Ebert Stiftung joint-project.
- LO (2011): "Employee-Driven Innovation: A Trade-Union Priority For Growth and Job Creation In A Globalised Economy." [http://www.lo.dk/Politik/Erhvervspolitik/forskning\\_og\\_innovation/~/\\_media/LO/English/Congress2007/2007\\_1114\\_1227\\_Employee\\_driven\\_innovation.ashx](http://www.lo.dk/Politik/Erhvervspolitik/forskning_og_innovation/~/_media/LO/English/Congress2007/2007_1114_1227_Employee_driven_innovation.ashx)
- Olson, M (2008). "The Rise and Decline of Nations: Economic Growth, Stagflation and Social Rigidities" Yale University.
- Osborne, H (2013). "Pressure and Job-Insecurity Felt by Workers at 20-year high" The Gaurdian. <http://www.theguardian.com/money/2013/may/20/british-workers-less-secure-more-stressed#sthash.c5TsNs6V.dpuf>
- Ozaki, A, Trebilcock, M (2011): "Forms of Workers' Participation." ILO Encyclopaedia of Occupational Health and Safety <http://www.ilo.org/oshenc/part-iii/labor-relations-and-human-resource-management/item/202-forms-of-workers-participation>
- Page, R (2011): "Co-Determination in Germany: A Beginner's Guide" Hans-Boeckler Foundation. [http://www.boeckler.de/pdf/p\\_arbp\\_033.pdf](http://www.boeckler.de/pdf/p_arbp_033.pdf)

PriceWaterhouseCoopers (2009): "Labour Laws In Denmark". <http://www.pwc.dk/da/human-ressource/assets/pwc-brochure-labour-law-web.pdf>

Spieglaire, S D, Van Gyes, G (2012): "Employee-Driven Innovation: A New Approach: Chapter 12: Employee-Driven Innovation and Industrial Relations." Palgrave McMillan [http://books.google.co.uk/books?id=66n\\_VE\\_kzjwC&printsec=frontcover&dq=Employee-Driven+Innovation:+A+New+Approach&hl=en&sa=X&ei=V195UvPwBaSv7Qbw3YGAAg&ved=0CDEQ6AEwAA#v=onepage&q=Employee-Driven%20Innovation%3A%20A%20New%20Approach&f=false](http://books.google.co.uk/books?id=66n_VE_kzjwC&printsec=frontcover&dq=Employee-Driven+Innovation:+A+New+Approach&hl=en&sa=X&ei=V195UvPwBaSv7Qbw3YGAAg&ved=0CDEQ6AEwAA#v=onepage&q=Employee-Driven%20Innovation%3A%20A%20New%20Approach&f=false)

Vitols, S (2010): "The European Participation Index (EPI): A Tool for Cross-National Quantitative Comparison." European Trade-Union Institute

Zalgeymar, S, Schulten, T (1998): "Board-Level Employee Representation In Europe." Eurofound <http://www.eurofound.europa.eu/eiro/1998/09/study/tn9809201s.htm>



Web: [www.reidfoundation.org](http://www.reidfoundation.org)

Phone: 0845 557 6844

Email: [contact@reidfoundation.org](mailto:contact@reidfoundation.org)

The Reid Foundation  
PO Box 8781  
Biggar  
ML12 9AG