Labor Relations: Striking a Balance

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Brief Contents

Part Four

Reflection

The previous parts of this book have provided an intellectual framework for studying labor relations, a description of how the U.S. New Deal industrial relations system works, and an overview of the intense contemporary pressures on this system. The final two chapters explore labor relations systems in other countries and possibilities for the future of the U.S. labor relations system. This provides the opportunity to reflect upon where the U.S. labor relations system has been and where it should go in the future

Chapter Twelve

Comparative Labor Relations

Advance Organizer

The previous chapters of this book presented the U.S. labor relations system in detail, but labor relations in other countries can be quite different. The scope of bargaining, the extent of legal protection, and the nature of labor unions vary from country to country. Studying labor relations in other countries provides a richer understanding of the subject, can present ideas for reforming the U.S. system, and is also important for professionals working in a global economy.

Learning Objectives

By the end of this chapter, you should be able to

1. **Compare** the basic features of labor relations systems in the major industrialized, democratic countries around the world.
2. **Identify** the basic features of labor relations systems in the transitional and less developed economies of eastern Europe and Asia.
3. **Understand** various options in labor relations systems for reacting to the pressures of globalization, decentralization, and flexibility while trying to balance efficiency, equity, and voice.
4. **Analyze** the extent to which the labor relations experiences of other countries can provide ideas and lessons for reforming the U.S. labor relations system.

Contents

Comparative labor relations is the study of labor relations systems in different countries, and the goal of this chapter is to compare the U.S. labor relations system to other systems. A comparative perspective on labor relations is important for three reasons. The analytical reason is that considering labor relations in multiple countries provides a rich basis for thinking broadly about the underlying problem of balancing efficiency, equity, and voice and for obtaining a stronger understanding of the primary issues in labor relations. The public policy reason is that comparative analyses of labor relations can provide ideas for reforming the U.S. system. Aspects of labor relations in Canada, Germany, and Japan have all been championed as proposals for reforming U.S. labor relations. The practical reason is that if you work for an organization that does business in another country or for a labor union that has strategic alliances with labor unions in

TABLE 12.1 *Labor Relations around the World: A Snapshot*

	Union Density	Bargaining Level	Key Features	Current Questions
United States	15%; falling.	Mostly workplace or company.	Exclusive representation; business unionism; detailed contracts.	How to protect workers with low union density and promote efficiency with bureaucratic unionism.
Canada	30%; stable.	Mostly workplace or company.	Exclusive representation; moving towards social unionism.	Are the small legal or social differences with the U.S. significant?
Mexico	25%	Government control.	Detailed contracts; strong constitutional protections, but weak, tightly controlled unions.	How to manage tension between state control, emerging independent labor unions, and competitiveness.
Great Britain	30%; falling.	Mostly workplace or company.	Voluntarism; wildcat strikes; Labour Party.	Does voluntarism yield unpredictable labor relations and harm competitiveness?
Ireland	35%; falling	National-level social partnerships and workplace bargaining.	Social partnership; voluntarism.	How to sustain social partnerships and extend them to the workplace.
Germany	25% (65% coverage); falling.	Industry	Codetermination; extension of agreements to entire industry; many mandated benefits.	Generous benefits and extensive consultation, but is it flexible enough?
Australia	25%; falling.	Occupational awards; workplace negotiations.	Arbitration awards; craft or occupation unions; wildcat strikes.	Are decentralization and deregulation the answers to international competition?
Japan	20%; falling.	Company.	Enterprise unions; cooperative relationships; Spring Labor Offensive.	Flexibility and cooperation, or management domination?

another country, it is important to understand that country's labor relations framework. This chapter, therefore, outlines the major features of labor relations in Canada, Great Britain, Ireland, France, Germany, Sweden, Australia, New Zealand, and Japan (see Table 12.1). These countries are representative of the types of labor relations systems found in industrialized, democratic countries. The labor relations systems in Mexico, eastern Europe, and selected less developed Asian countries are also discussed.

A traditional claim is that U.S. labor relations are exceptional. Low levels of support for unionization, lack of a socialist movement, legal protection of individuals rather than unions, and intense employer resistance to unions are all claimed to be relatively unique to the United States among industrialized, democratic countries; in other words, support for unionization, a socialist movement, legal rights for unions, and low employer resistance to

TABLE 12.2
Labor Relations around the Globe: Union Membership ≠ Contract Coverage

Source: OECD, *Employment Outlook* (Paris: Organization for Economic Cooperation and Development, 2004), p. 145.

Country	Bargaining Coverage	Union Density
United States	14%	13%
Japan	15+	22
New Zealand	25+	23
United Kingdom	30+	31
Canada	32	28
Germany	68	25
Norway	70+	54
Spain	80+	15
Portugal	80+	24
Australia	80+	25
Italy	80+	35
France	90+	10
Belgium	90+	56
Finland	90+	76
Sweden	90+	79
Austria	95+	37

Notes: Figures are for 2000. + indicates a lower-bound estimate.

unions are widely present in industrialized, democratic countries *except* the United States.[1] In this vein, when considering the labor relations systems of other countries, note the sometimes great differences with the U.S. system—exclusive representation is not always present, contracts are not always legally enforceable, and business unionism is not always the dominant philosophy. Moreover, not only are unions often organized differently, but so too are employers. In many countries outside North America, employers' associations rather than individual companies dominate collective bargaining. Table 12.2 shows that in many other countries, union membership is not as closely associated with being covered by a union contract as it is in the United States. In Spain, France, and Austria over 80 percent of employees are covered by a collective bargaining agreement, yet union density is less than 50 percent—and is only 10 percent in France.

At the same time, labor relations around the globe are similar in other respects. The contemporary pressures on labor, management, and government are universal: globalization, decentralization, and flexibility. Moreover, the fundamental issues of labor relations are constant across all countries. The objectives of the employment relationship are efficiency, equity, and voice; there is a need to balance labor rights and property rights; and labor relations outcomes are determined by the environment and individual decision making. The U.S. New Deal labor relations system is one possible method of pursuing these objectives,

[1] Larry G. Gerber, "Shifting Perspectives on American Exceptionalism: Recent Literature on American Labor Relations and Labor Politics," *Journal of American Studies* 31 (August 1997), pp. 253–74; Sanford M. Jacoby, "American Exceptionalism Revisited: The Importance of Management," in Sanford M. Jacoby (ed.), *Masters to Managers: Historical and Comparative Perspectives on American Employers* (New York: Columbia University Press, 1991), pp. 173–200; and Kim Voss, *The Making of American Exceptionalism: The Knights of Labor and Class Formation in the Nineteenth Century* (Ithaca: Cornell University Press, 1993).

but the comparative study of labor relations in other countries reveals many alternative possibilities. Therefore, this chapter outlines the labor relations systems of a number of representative countries. There are innumerable ways to order these countries, so to avoid confusion the tour here proceeds geographically from North America to Europe to Asia. The chapter concludes by revisiting the question of globalization: In an integrated world economy, is it possible to have unique national labor relations systems, or does integration force convergence of national institutions?

CANADA

In broad terms, Canada and the United States have similar economic, institutional, and legal features, comparable demographic, occupational, and industrial structures, interdependent product markets, and many of the same corporations. Labor unions in the two countries have similar structures, many Canadian workers are represented by U.S. unions, and Canadian labor law is patterned after the U.S. Wagner Act (but not the Taft–Hartley Act).[2] Exclusive representation, bargaining structures and strategies, and the resulting union contracts are therefore similar.[3] However, some cultural and small yet important legal differences have caused Canadian outcomes to diverge from those in the United States.

Canadian labor law is not centralized as it is in the United States. The provinces have similar yet unique laws that govern labor relations. Although these laws are largely modeled after the U.S. National Labor Relations Act (NLRA), there are some important differences between the provincial laws and the NLRA (see Table 12.3).[4] First, Canadian labor law makes it easier to establish and maintain a union. In contrast to the sometimes lengthy National Labor Relations Board certification election procedure in the United States, some Canadian provinces provide for card check recognition (certification based on authorization cards without a secret ballot election) and instant elections that occur within a couple of days of filing the election petition. These quick processes reduce the scope for contentious campaigning and antiunion managerial tactics.[5] When newly organized unions fail to reach a first contract, some Canadian provinces provide for arbitration to establish a contract. Canadian labor relations also lack right-to-work laws banning union security agreements, and in fact the larger provinces require at least an agency shop, which strengthens the financial base of Canadian unions.[6] Second, Canadian labor law makes it more difficult for employers to break an existing union. Some provinces do not allow decertification elections during a strike; and where they are allowed, strike

[2] Daphne Gottlieb Taras, "Collective Bargaining Regulation in Canada and the United States: Divergent Cultures, Divergent Outcomes," in Bruce E. Kaufman (ed.), *Government Regulation of the Employment Relationship* (Madison, WI: Industrial Relations Research Association, 1997), pp. 295–341.

[3] John Godard, *Industrial Relations, the Economy, and Society,* 3rd ed. (Concord, Ontario: Captus Press, 2005); and Mark Thompson and Daphne G. Taras, "Employment Relations in Canada," in Greg J. Bamber, Russell D. Lansbury, and Nick Wailes (eds.), *International and Comparative Employment Relations: Globalisation and the Developed Market Economies* (London: Sage, 2004), pp. 91–118.

[4] Steven E. Abraham, "The Relevance of Canadian Labour Law to U.S. Firms Operating in Canada," *International Journal of Manpower* 18 (October 1997), pp. 662–74.

[5] Paul Weiler, "Promises to Keep: Securing Workers' Rights to Self-Organization under the NLRA," *Harvard Law Review* 96 (June 1983), pp. 1769–827; and Chris Riddell, "Union Certification Success under Voting versus Card-Check Procedures: Evidence from British Columbia, 1978–1998," *Industrial and Labor Relations Review* 57 (July 2004), pp. 493–517.

[6] Daphne Gottlieb Taras and Allen Ponak, "Mandatory Agency Shop Laws as an Explanation of Canada–U.S. Union Density Divergence," *Journal of Labor Research* 22 (Summer 2001), pp. 541–68.

TABLE 12.3 U.S. and Canadian Labor Law: Small Differences That Matter?

Topic	United States	Canada
Legal jurisdiction	Centralized: private sector governed by federal law.	Decentralized: governed by provincial laws.
Union certification	National Labor Relations Board election procedure. Employers can campaign and use delay tactics.	Some provinces allow card check certification or instant elections.
First contract arbitration	No.	Provided in some provinces.
Decertification elections	Strike replacements can vote and permanently replaced strikers can only vote for 12 months.	Some provinces exclude replacement workers from voting or prohibit decertification petitions during a strike.
Nonunion representation	Illegal.	Company domination and interference with organizing are illegal; otherwise legal.
Union security	Right-to-work laws in 22 states forbid union and agency shops.	No right-to-work laws. Unions are guaranteed at least an agency shop in many provinces.
Technological change	Not a mandatory bargaining item.	Equivalent of a mandatory bargaining item in some provinces.
Strike replacements	Except in unfair labor practice strikes, permanent and temporary replacements are allowed.	Most provinces ban the use of permanent replacements. Two provinces ban all replacements.

Sources: See text

replacements are often not considered part of the bargaining unit and therefore are not allowed to vote. Moreover, most provinces ban permanent strike replacements or provide striking workers with immediate reinstatement rights; in Quebec and British Columbia, even temporary replacements are prohibited.[7]

Relative to the processes in the rest of the world, Canadian labor relations processes are similar to those in the United States; but subtle legal differences and some cultural factors appear to support a more stable labor relations system in Canada.[8] Union density has remained more stable, though Canada also has a larger public sector that accounts for at least some of this difference with the United States. During the concession bargaining period of the 1980s, Canadian unions fared better in wage bargaining than their U.S. counterparts.[9] In contrast to the U.S. business unionism philosophy, Canadian unions are moving toward a social unionism philosophy in which labor has a more militant, social activist role. For advocates of a stronger labor movement and greater employee representation in the workplace, the small legal differences pertaining to union organizing and strike replacements form the basis for proposals to reform U.S. labor law.

[7] John W. Budd, "Canadian Strike Replacement Legislation and Collective Bargaining: Lessons for the United States," *Industrial Relations* 35 (April 1996), pp. 245–60.

[8] Taras, "Collective Bargaining Regulation in Canada and the United States"; Thompson and Taras, "Employment Relations in Canada"; Seymour Martin Lipset and Noah M. Meltz, with Rafael Gomez and Ivan Katchanovski, *The Paradox of American Unionism: Why Americans Like Unions More Than Canadians Do but Join Much Less* (Ithaca, NY: Cornell University Press, 2004).

[9] John W. Budd, "Union Wage Determination in Canadian and U.S. Manufacturing, 1964–1990: A Comparative Analysis," *Industrial and Labor Relations Review* 49 (July 1996), pp. 673–89.

MEXICO

The increasing economic integration of the United States, Canada, and Mexico via the North American Free Trade Agreement (NAFTA) has focused greater attention on the labor relations system of Mexico. The Mexican system is important in its own right, but it is also presented here as broadly representative of labor relations in developing countries. In essence, the primary theme is appearance versus reality: On paper Mexican law provides strong protections for workers and unions, but the extent of enforcement is questionable.[10] Moreover, labor negotiations and unions have traditionally been controlled by the government as part of a larger economic development strategy. As in many other developing countries, this results in sharp clashes between the government and independent labor unions because of the government's focus on competitiveness and foreign investment at the expense of democracy and working conditions.

Quite strikingly, social and economic rights for workers are written directly into Mexico's constitution of 1917. In fact, this was the first constitution or basic national charter anywhere to explicitly include workers' rights.[11] Article 123 guarantees the right to organize unions, bargain collectively, and strike; provides protections against unjust dismissal and dangerous working conditions; and mandates minimum wages, overtime pay, profit sharing, an eight-hour day, a six-day workweek, and pregnancy and childbirth leave. Under Mexican labor law, a union must have at least 20 employees and can be an industrial union, craft union, or enterprise union (representing workers at only one company). In rural areas where there is difficulty meeting the 20-worker minimum, general unions are also allowed. To have legal rights, unions must register with the government as one of these types. A union does not need to represent a majority of employees to engage in collective bargaining, but it does need this to legally strike. All contracts automatically include the minimum provisions mandated by the constitution. Once approved by the government, contracts are legally enforceable.

There is no explicit obligation for management to bargain; rather, this is enforced through the strike-related aspects of labor law. Once the legal standards for a strike are fulfilled and mediation fails, a strike can occur. Red and black flags are flown at the entrances to the workplace, and all employees must stop working except those necessary to protect raw materials and equipment.[12] Interestingly, the union is legally responsible for protecting the company's materials and equipment. The employer must cease operations, and permanent strike replacements are prohibited. As such, the legal protections for workers and unions are much greater in Mexico than in the United States—at least on paper.[13]

In practice there are questions about the effectiveness of these protections. For 50 years the most influential union federation was the *Confederación de Trabajadores México* (CTM, Confederation of Mexican Workers). The CTM was closely connected to the longtime ruling party—the *Partido Revolucionario Institucional* (PRI, Institutional Revolutionary Party)—and was therefore frequently criticized as making the labor movement subservient to the government.[14] CTM-affiliated union leaders have been portrayed as being

[10] Stephen F. Befort and Virginia E. Cornett, "Beyond the Rhetoric of the NAFTA Treaty Debate: A Comparative Analysis of Labor and Employment Law in Mexico and the United States," *Comparative Labor Law Journal* 17 (Winter 1996), pp. 269–313.

[11] Commission for Labor Cooperation, *Labor Relations Law in North America* (Washington, DC, 2000).

[12] Commission for Labor Cooperation, *Labor Relations Law in North America.*

[13] Befort and Cornett, "Beyond the Rhetoric of the NAFTA Treaty Debate."

[14] Altha J. Cravey, *Women and Work in Mexico's Maquiladoras* (Lanham, MD: Rowman and Littlefield, 1998); Richard A. Morales, "Mexico," in Miriam Rothman, Dennis R. Briscoe, and Raoul C. D. Nacamulli (eds.), *Industrial Relations around the World: Labor Relations for Multinational Companies* (Berlin: Walter de Gruyter, 1992), pp. 285–95; and Alberto Aziz Nassif, "The Mexican Dual Transition: State, Unionism, and the Political System," in Maria Lorena Cook and Harry C. Katz (eds.), *Regional Integration and Industrial Relations in North America* (Ithaca, NY: Institute of Collective Bargaining, Cornell University, 1994), pp. 132–41.

more loyal to the PRI than to their unions. Similarly, collective bargaining agreements are alleged to be more a function of the government's overall economic development strategy than the product of independent collective bargaining. To wit, as the government privatized industries and embraced free trade, union density fell from 30 percent to 20 percent from 1984 to 2000.[15]

Government control of labor unions is facilitated by Mexican labor law. To have legal rights, unions must register with the government. This is supposed to be purely an administrative requirement, but there is scope for favoritism and control. Government-controlled unions are referred to as "yellow unions" or "ghost unions," and by some estimates such sham unions are widespread.[16] Government agencies also play significant roles in determining the legality of strikes and in approving contracts. The extent to which labor law and unions are manipulated and controlled by the government is probably overstated by critics, but nevertheless this is at least partially true.[17] The independence, and therefore legitimacy, of the Mexican labor movement has been a concern nationwide. Such concerns are particularly acute in the *maquiladora* industry because of the need to attract foreign investment (recall Chapter 11). At the same time, the rank and file are not universally passive, and struggles for democratic unions and free collective bargaining occur within and outside the official (government-approved) labor movement (see the accompanying "Labor Relations Application" box).[18]

Such struggles sharpened in the first decade of the 21st century. After seven decades in power, the PRI was ousted by the conservative *Partido Acción Nacional* (PAN, National Action Party) with the election of Vcente Fox to Mexico's presidency in 2000. Fox was elected on a platform of government reform and transparency, and he was supported by independent unions who saw these reforms as ending the government's control of the labor movement. But after taking office, Fox pushed a pro-business agenda of privatization, budget cuts, and labor law reform.[19] Moreover, independent unions see the Fox administration as continuing the legacy of government control over the labor movement, such as when Napoleón Gómez Urrutia was removed as president of the mine workers union in 2006. New federations of independent unions such as the National Union of Workers have sprung up, and massive protests against the Fox administration have occurred. The contested presidential election of Felipe Calderón in 2006 and the financial crisis imported from the United States in 2008 further added to the turmoil between labor and politics in Mexico. As such, Mexico continues to be broadly representative of labor relations in developing countries: strong labor rights on paper, but in reality a high degree of state control (although not as repressive as in some regimes) that creates conflicts with independent labor movements.

GREAT BRITAIN

The labor relations system in Great Britain illustrates the important concept of **voluntarism.** Unlike U.S. and Canadian labor relations, in which the law requires unions and companies to negotiate if the union represents a majority of the workers, in Great Britain collective bargaining has traditionally occurred only if the parties voluntarily agreed.

[15] David Fairris and Edward Levine, "Declining Union Density in Mexico, 1984–2000," *Monthly Labor Review* 127 (September 2004), pp. 10–17.

[16] Dan La Botz, "Mexico's Labor Movement in Transition," *Monthly Review* 57 (June 2005), pp. 62–72.

[17] Befort and Cornett, "Beyond the Rhetoric of the NAFTA Treaty Debate."

[18] Maria Lorena Cook, *Organizing Dissent: Unions, the State, and the Democratic Teachers' Movement in Mexico* (University Park: The Pennsylvania State University Press, 1996); and La Botz, "Mexico's Labor Movement in Transition."

[19] La Botz, "Mexico's Labor Movement in Transition."

Labor Relations Application Struggles for a Democratic Teachers' Union in Mexico

The teachers' union in Mexico illustrates the tension between rank-and-file union members, union leaders, and the government in Mexico—and other countries in which the government tries to control the labor movement. The *Sindicato Nacional de Trabajadores de la Educación* (SNTE, National Union of Education Workers) was formed in 1943 and is now the largest union in Mexico with more than a million members. Similar to the private sector unions affiliated with the *Confederación de Trabajadores México* (CTM, Confederation of Mexican Workers), the SNTE has traditionally been a typical "official" union—a centralized structure with leaders who are closely connected to the government and the ruling party, especially the *Partido Revolucionario Institucional* (PRI, Institutional Revolutionary Party) before 2000.

SNTE leaders generally were more interested in pleasing the PRI than the union's members: If they could keep the rank-and file-teachers tranquil, they would be rewarded by the PRI, and movement into government positions was common. But over time, relations between union leaders and the government shifted, alliances changed, and priorities varied so that new accommodations and compromises were often pursued. Moreover, the rank-and-file teachers were not always passive, and at various times their discontent pressured the SNTE leadership and the government.

The first decades of the SNTE were characterized by the government-aided repression of important dissident movements that reflected grassroots frustration with declining real wages and the SNTE's undemocratic practices. A 29-day strike against the government and the national SNTE in the southern state of Chiapas in 1979 led to the founding of the *Coordinadora Nacional de Trabajadores de la Educación* (CNTE, National Coordinating Committee of Education Workers). The CNTE's major objective was to work within the structure of the SNTE to instill greater democracy. In the early 1980s, local branches of the CNTE were active in several states in leading strikes and other forms of protest against the government's working conditions and the SNTE's unresponsiveness or repression. Marches to state and federal government offices were common and sometimes were accompanied by a takeover of the office or violence against the marchers. CNTE groups were successfully elected to leadership positions in Chiapas and Oaxaca, but the SNTE effectively repressed the dissident movement elsewhere. Moreover, in the mid-1980s the national SNTE frustrated the Chiapas and Oaxaca locals through delays in authorizing local elections to renew the authority of the CNTE-supported leaders.

A fresh national struggle for democracy within the SNTE followed the controversial election of Carlos Salinas to the presidency of Mexico in 1988. Led by the CNTE and fueled again by frustration with declining real wages and with the lack of democracy in the SNTE, numerous strikes, marches, and hunger strikes erupted in 1989, and the government ousted the head of the SNTE. Under the new leadership, reforms were enacted that included secret ballot elections and official disaffiliation with the PRI.

The PRI was replaced in 2000 by the conservative *Partido Acción Nacional* (PAN, National Action Party) when Vicente Fox was elected president of Mexico. Nevertheless, dissidents continue to push for democratic reforms, and the SNTE continues to be embroiled in national and regional politics. After a key SNTE leader was pushed out of the PRI in 2004, the union launched a New Alliance Party that ran a candidate in the controversial 2006 Mexican presidential elections. A strike by teachers in Oaxaca in 2006 for higher pay turned violent when police tried to clear the strikers from town plazas; subsequently huge demonstrations of more than 100,000 protesters called for the resignation of the provincial governor. Another massive strike by dissident teachers in 2008 aimed at the Mexican government and the head of the SNTE also turned violent. As such, the tense relationship between unions and the government in Mexican labor relations are exemplified by the teachers' union, as are the recurring struggles not only between the union and the government, but also between the rank and file and their leaders.

Source: Maria Lorena Cook, *Organizing Dissent: Unions, the State, and the Democratic Teachers' Movement in Mexico* (University Park: The Pennsylvania State University Press, 1996); updated from various sources.

Voluntary refers to the absence of legal force—labor and management use their economic power, not legal rights, to get the other side to do something, especially to bargain or abide by a contract. When management voluntarily agrees to bargain, for example, it is because the economic costs of refusing to bargain, such as strikes or poor morale, are greater than the costs of bargaining. Representation questions have traditionally been settled through economic force, not elections as in the U.S. system. Management recognizes a union when the union is powerful enough to make it costly for the firm to refuse. The Employment Relations Act (1999) modified the voluntaristic approach by providing for statutory recognition of a union under specified majority demonstration provisions, but voluntary recognition is still encouraged.[20] Another major component of British voluntarism is that contracts are not legally enforceable. Labor and management voluntarily agree to abide by the contract—as long as the costs of following the contract are smaller than the costs of breaking it. Contracts are thus enforced by economic force, not the legal system.

British voluntarism can be traced back to the late 19th century. At that time production was largely craft-based, and skilled workers could shape workplace practices through formal and informal negotiations in individual workplaces using the scarcity of their skills as bargaining leverage.[21] Based on this tradition of unregulated bargaining, both labor and management feared unfavorable, restrictive government involvement—unions did not want restrictions on strikes and boycotts while management did not want restrictions on the freedom to manage. Thus, a voluntarism system emerged and has essentially been maintained. This does not mean, however, that British labor relations are not regulated. The Trades Disputes Act facilitates voluntarism by making labor unions immune from being sued for breach of contract and for striking. Moreover, various pieces of legislation passed by the Conservative government of Margaret Thatcher in the 1980s restrict labor's ability to conduct secondary boycotts, outlaw the closed shop, and require unions to follow certain democratic procedures for electing officers and determining membership support for a strike.[22] Voluntarism in labor relations is therefore a relative term, not an absolute one: British labor relations are voluntaristic relative to labor relations in many other countries that have more extensive legal regulation of labor relations, but they are not free of all regulation.

As a result of its craft origins, the British labor movement historically consisted of numerous occupationally focused unions. Recent mergers have created more general unions. Relative to the United States, there are still many unions, and the largest are UNISON (representing public sector workers); Unite; and the General, Municipal, and Boilermakers' Union (GMB).[23] Many unionized workplaces have multiple unions. There is one union federation, the Trades Union Congress (TUC), and its role in British labor relations is similar to the AFL–CIO's role in the United States: political lobbying, education, and union coordination, but not collective bargaining. Another notable feature

[20] Gregor Gall (ed.), *Union Organizing: Campaigning for Trade Union Recognition* (London: Routledge, 2003); and Nancy Peters, "The United Kingdom Recalibrates the U.S. National Labor Relations Act: Possible Lessons for the United States," *Comparative Labor Law and Policy Journal* 25 (Winter 2004), pp. 227–56.

[21] Paul Edwards et al., "Great Britain: From Partial Collectivism to Neo-Liberalism to Where?" in Anthony Ferner and Richard Hyman (eds.), *Changing Industrial Relations in Europe* (Oxford: Blackwell Publishers, 1998), pp. 1–54.

[22] Edwards et al., "Great Britain"; and Mick Marchington, John Goodman, and John Berridge, "Employment Relations in Britain," in Greg J. Bamber, Russell D. Lansbury, and Nick Wailes (eds.), *International and Comparative Employment Relations: Globalisation and the Developed Market Economies* (London: Sage, 2004), pp. 36–66.

[23] Marchington et al., "Employment Relations in Britain."

of the British labor movement is its close association with the Labour Party, which was founded in 1900 by British unions and the TUC to increase labor's legislative representation in the House of Commons.[24] Although the Labour Party has tried to distance itself from the unions recently, before the 1980s there were periods in which Labour governments worked closely with the labor movement—for example, in linking wage restraint to industrial relations reform.[25]

The current issues facing British unions are similar to those in the United States. The biggest issue is probably the decline in union density. Although the British decline began much later (1979) than that in the United States (mid-1950s), since 1980 British union membership has fallen by more than 5 million members, and union membership as a fraction of the labor force (union density) has plummeted from 50 percent to 30 percent.[26] This decline appears to stem from structural changes in the economy, labor market weakness, and the previously mentioned Conservative government legal changes enacted in the 1980s.[27] A second issue for unions in Great Britain is the challenge of employer demands for flexibility and partnership. As in the United States, diverse and widespread changes in workplace practices present a great challenge for unions.[28] A third issue is the future course of public policy. As its power has waned with the legal reforms of the Conservative government, British labor is looking more toward the European Union (EU) as a method for achieving labor regulations that favor workers and their representatives.[29] For example, the European Works Council directive discussed in the previous chapter was enacted by the British government in 1999 and the EU's Information and Consultation Directive in 2004. Under the latter, an employer must consult with employees about business changes that might affect employment if 10 percent of the employees request consultation. Movement toward a European type of representation, however, entails significant change from the voluntaristic and adversarial traditions of British labor.

The balance among efficiency, equity, and voice in a voluntaristic system to a large extent depends on markets and the economic leverage of the two parties. In the early 1960s low unemployment gave workplace shop stewards significant leverage, and many strikes were called to win grievances and other gains—recall that contracts are enforced by economic force, not legal procedures.[30] As a result, British labor relations developed a reputation of being adversarial and turbulent and therefore harmful to efficiency and competitiveness (see the accompanying "Labor Relations Application" box). When unemployment is higher, as during the recession of 2009, management has the upper hand and efficiency-enhancing policies dominate equity and voice concerns.

[24] Robert Taylor, "Out of the Bowels of the Movement: The Trade Unions and the Origins of the Labour Party 1900–18," in Brian Brivati and Richard Heffernan (eds.), *The Labour Party: A Centenary History* (London: Macmillan Press, 2000), pp. 8–49.

[25] Brian Brivati and Richard Heffernan (eds.), *The Labour Party: A Centenary History* (London: Macmillan Press, 2000).

[26] Jelle Visser, "Union Membership Statistics in 24 Countries," *Monthly Labor Review* 129 (January), pp. 38–49.

[27] Brian Towers, *The Representation Gap: Change and Reform in the British and American Workplace* (Oxford: Oxford University Press, 1997).

[28] Harry C. Katz and Owen Darbishire, *Converging Divergences: Worldwide Changes in Employment Systems* (Ithaca, NY: ILR Press, 2000); Towers, *The Representation Gap;* and John Kelly, "Social Partnership Agreements in Britain: Labor Cooperation and Compliance," *Industrial Relations* 43 (January 2004), pp. 267–92.

[29] Edwards et al., "Great Britain"; and Marchington et al., "Employment Relations in Britain."

[30] Towers, *The Representation Gap.*

Labor Relations Application The British Miners' Strike of 1984–1985

The singular watershed event in U.S. labor relations in the last 50 years was arguably the illegal Professional Air Traffic Controllers Organization (PATCO) strike in 1981 (Chapter 3). President Ronald Reagan's firing of the 11,000 striking air traffic controllers is often cited as the event that made it acceptable for private sector companies to aggressively fight unions in organizing drives, at the bargaining table, and by using replacement workers for strikers. In Great Britain, the analogous watershed event was the National Union of Mineworkers (NUM) 12-month strike against the government-run National Coal Board (NCB) in 1984–1985, now often referred to simply as the Great Strike.

By many accounts, the roots of the 1984–1985 NUM strike go back to large coal strikes in 1972 and 1974, which were at least partly responsible for the downfall of the Conservative government of Edward Heath. When Conservative leader Margaret Thatcher was elected in 1979, she was determined not to let this happen again—and perhaps also to extract some revenge. An equally aggressive personality with opposite political views became leader of the NUM in 1981: the militant socialist Arthur Scargill. Adding to the mix of strong personalities was Thatcher's 1983 appointment to head the NCB: Ian MacGregor, who had already shed thousands of jobs at the nationalized (and unprofitable) British Steel. For NUM, this was a sign that Thatcher wanted a confrontation.

The strike was triggered by the NCB's March 1984 announcement that it was closing a mining pit in Yorkshire and by its unilateral insistence that a total of 20 pits be closed—in violation of earlier promises and agreements. Although the coal board claimed that most of the 20,000 lost jobs would come through attrition, NUM was prepared to fight unilateral pit closures to protect both jobs and communities, and the union went on strike without a strike vote. At the height of the strike 150,000 miners were on strike, but 25,000 miners in Nottinghamshire refused to strike until a strike vote was taken. Their later strike vote rejected striking. With this large division within its own ranks, NUM garnered little support from the rest of the British labor movement. The lack of an initial strike vote also came back to haunt NUM as the strike was declared illegal because NUM's constitution required a strike vote, and its funds were sequestered.

The primary issue of the strike was pit closings—the government's right to unilaterally close mining pits versus the destruction of jobs and rural mining communities. With such a difficult issue dividing them, both NUM and the NCB took a hard line in negotiations. Depending on which side is believed, these hard-line bargaining stances were backed up by violent miners on the picket lines or by overly aggressive police supported by complicit judges. There were numerous violent clashes between miners and police, and it is estimated that 1,700 injuries and a couple of deaths resulted. Nearly 10,000 striking miners were arrested. A warm winter, some domestic mining, and increased imports of coal and oil generally offset the loss of coal production due to the strike. With no end in sight and more miners returning to work, the miners voted to end the strike without a collective bargaining agreement after 51 weeks.

Politically, the strike was extremely divisive. It highlighted north (poor) versus south (rich) divisions within Britain, created fissures within the labor movement and the Labour Party, and questioned the fabric of British society. Thatcher's opposition was so intense that she labeled the miners "the enemy within." It was later revealed that MI5, Britain's domestic CIA, led a widespread surveillance effort that included infiltration of NUM, bugging restaurants frequented by NUM leaders, and tapping the phone of every NUM branch. At the end of the strike Thatcher remained concerned about future strikes, and in 1990 NUM leader Scargill was accused in the media of using donations from Libya and the Soviet Union for his personal gain rather than helping striking miners. The accusations proved to be false, and evidence points toward an MI5 conspiracy to plant these false accusations in the media.

As in the PATCO strike in the United States, the NUM strike of 1984–1985 arguably established a climate in Britain of aggressive antiunionism. British union density has continued to decline, and the Labour Party continues to distance itself from the labor movement that founded it. And nearly all the pit mines have been closed.

Ironically, however, for many miners' wives and other women the strike was an empowering event. In stories that parallel the Women's Emergency Brigade in the General Motors sit-down strike in 1936–1937 or the women's auxiliary in the Phelps Dodge strike in 1983 in the United States, women became actively involved in the NUM strike by running soup kitchens, speaking to groups around Great Britain to develop support for the strike, and picketing. The following two quotes from participants in the strike are revealing:

(Continued)

(Continued)

"The NUM, as far as I can see, put all its eggs in the picketing basket, as they traditionally have, and made no particular provision for dealing with destitution amongst the families. So the women began to see that as well as campaigning there was a need to support the families. That meant going far beyond the traditional housewife role of the mining women. There has been large-scale catering, feeding five and six hundred people in a day; having to raise the money for that, learning to argue for it, to earn it in all sorts of ways, by speaking at meetings and rallies, by collecting on the streets. What they did was to set up an alternative welfare system, and an effective one at that. And these women who had never done anything outside the home before, learning to speak on public platforms to enormous audiences. The change in those women is tremendous." (A daughter, mother, and ex-wife of miners in South Yorkshire)

"The strike has brought me out of my shell. I am not a quiet person, but I am not particularly outgoing. Now, if I thought something was wrong, or if someone needed my support, I would do it. I'm glad it happened, because we got up and shook ourselves." (A self-described "little simple housewife" before the strike, and a miner's wife in southeastern Wales)

Sources and additional reading: Teresa Ghilarducci, "When Management Strikes: PATCO and the British Miners," *Industrial Relations Journal* 17 (Summer 1986), pp. 115–28; Ian MacGregor, *The Enemies Within: The Story of the Miners' Strike, 1984–1985* (London: Collins, 1986); Seamas Milne, *The Enemy Within: MI5, Maxwell, and the Scargill Affair* (London: Verso, 1994); and Vicky Seddon (ed.), *The Cutting Edge: Women and the Pit Strike* (London: Lawrence and Wishart, 1986). The two quotes are from Seddon, *The Cutting Edge,* pp. 29 and 229.

Additional viewing: The movie *Billy Elliot* is set against the backdrop of the 1984–1985 strike.

Because a voluntaristic system lacks legal standards for representation and bargaining, strong employer leverage can result in representation mechanisms that are illegal elsewhere. As a graphic example, consider Nissan and Toyota's recognition of the Amalgamated Engineering and Electrical Union (now Unite) at their British plants. Because of their economic leverage, the companies were able to insist that broad managerial prerogatives remain the sole function of management. In addition to production methods and standards, these prerogatives include core labor issues such as employee communications, transfers, and promotions. Moreover, wages and terms and conditions of employment are established not through bargaining but through a joint employee–management company council in which the union has no formal role, strikes are not allowed, and the company retains final decision-making authority.[31] This essentially nonunion form of employee representation is illegal in the United States because of restrictions on company-dominated unions and obligations to bargain over wages and terms and conditions of employment; but voluntarism allows any arrangement that is mutually acceptable, where the definition of acceptable is determined by bargaining power.

IRELAND

Labor relations in Ireland are an interesting contrast with the British system. At their core, Irish labor relations are similar to British labor relations. When Ireland gained independence from Great Britain in 1922, the existing British laws for labor relations continued under the new Irish government. Consequently, the British system of voluntarism and labor union immunity from common law liabilities underlies Irish as well as British labor relations.[32] Collective bargaining was therefore also traditionally adversarial and produced restrictive work rules, and until 1980 Ireland was perceived as one of the most strike-prone countries

[31] Katz and Darbishire, *Converging Divergences.*

[32] Patrick Gunnigle, Gerard McMahon, and Gerard Fitzgerald, *Industrial Relations in Ireland: Theory and Practice,* 2nd ed. (Dublin: Gill and Macmillan, 1999).

in Europe.[33] The Industrial Relations Act of 1990 implemented reforms similar to the British changes in labor law initiated in the 1980s by the Thatcher government—restrictions on secondary activity and picketing plus requirements for secret ballot strike votes—but the basic labor relations framework remains voluntarism. As in many other countries, union density declined after 1980 and now stands at approximately 35 percent.[34]

The striking contrast with British labor relations is the Irish inclusion of **social partnership** on top of its voluntaristic labor relations system. Social partnership can mean various things, but here the term is used in a corporatist sense: a social partnership of labor, business, and the government that results in a series of peak-level agreements on social and economic issues.[35] Peak-level organizations are the highest national groups representing the public, employees, and employers. For the public this is the government; for labor it is the major labor union federation; and for employers it is the major employers' association. In a corporatist political system, these key peak-level organizations are integrated into the political decision-making process. This stands in contrast to a pluralist political system (as in the United States) in which interest groups such as the labor movement and employers' associations compete for influence by pressuring and lobbying lawmakers, but are not formally incorporated into the decision-making process.

The Irish peak-level organizations include the major union federation—the Irish Congress of Trade Unions (ICTU)—and the Irish Business and Employers' Confederation (IBEC) representing employers. Prompted by a growing economic crisis in the 1980s—including stagnant personal income and sharply increasing unemployment and government debt—the government, the ICTU, and the IBEC negotiated a social partnership agreement called the Programme for National Recovery (PNR) in 1987. The goal of the PNR was to create a fiscal and monetary climate that was conducive to economic growth and a reduction in government debt. This included changes in the tax system, increased employment opportunities, and private sector pay guidelines (a six-month pay freeze followed by 2.5 percent annual increases). This three-year social partnership agreement has been followed by six additional agreements (see Table 12.4). In a break from the earlier agreements, the seventh partnership agreement, "Towards 2016," negotiated in 2006, is designed to last for 10 years except for the wage agreement, which covered only the first 27 months. A new wage agreement was negotiated in 2008, but this agreement broke down when the government implemented a pay freeze during the recession in 2009.

On one level these social partnership agreements reflect a system of centralized bargaining. Each of the agreements established pay guidelines for the Irish economy, and while some local bargaining occurred, collective bargaining for wages was essentially done by the one major union federation and employers' association on an economywide basis. But this is more than just centralized collective bargaining. In addition to labor and management, the government participates as a third pillar, and in the 1990s a fourth pillar of community groups was added to the partnership process.[36] Recent social partnership talks have therefore included representatives from organizations such as the Irish Farmers Association, the Irish National Organization of the Unemployed, and the Conference of Religious of Ireland; the resulting agreements reflect a *social* partnership much broader than a limited economic or workplace agreement. Far-ranging economic and social issues are tackled in

[33] Ferdinand von Prondzynski, "Ireland: Corporatism Revived," in Anthony Ferner and Richard Hyman (eds.), *Changing Industrial Relations in Europe* (Oxford: Blackwell Publishers, 1998), pp. 55–73.

[34] Visser, "Union Membership Statistics in 24 Countries."

[35] Hans Slomp, *Between Bargaining and Politics: An Introduction to European Labor Relations* (Westport, CT: Praeger, 1996).

[36] William K. Roche, "Social Partnership in Ireland and the New Social Pacts," *Industrial Relations* 46 (July 2007), pp. 395–425.

TABLE 12.4
Social Partnership Agreements in Ireland

The Programme for National Recovery (PNR), 1987–1990

Objectives: Creation of a fiscal and monetary climate that is conducive to economic growth and a reduction in government debt.

Provisions: Changes in the tax system, increased employment opportunities, and private sector pay guidelines (a six-month pay freeze followed by 2.5 percent annual increases).

The Programme for Economic and Social Progress (PESP), 1990–1994

Objectives: Sustained economic growth, increased employment, development of greater social rights (education, health, and housing), worker participation, women's rights, and consumer rights.

Provisions: Pay guidelines and a pledge by labor and management to maintain industrial harmony and to resolve bargaining differences through formal dispute resolution machinery (such as the Labour Court).

The Programme for Competitiveness and Work (PCW), 1994–1997

Objectives: Pay stability and creation of a climate for growth (similar to the PNR).

Provisions: Primarily pay guidelines, but also employment and training programs and tax reform.

Partnership 2000 for Inclusion, Employment, and Competitiveness, 1997–2000

Objectives: Continued development of an efficient, internationally competitive economy, employment growth, and social inclusion.

Provisions: Tax relief, government debt reduction targets, creation of a national framework for creating labor–management partnerships at the enterprise level, attempts at tackling social exclusion, a framework for resolving union recognition questions, and pay guidelines.*

The Programme for Prosperity and Fairness, 2001–2003

Objectives: Promote competitiveness, further economic prosperity, improvements in the quality of life and living standards for all, and a fairer and more inclusive Ireland.

Operational frameworks: Living standards and workplace environment (including pay standards, workplace partnerships, and flexibility), prosperity and economic inclusion, social inclusion and equality, successful adaptation to continuing change, and renewing partnership.

Sustaining Progress, 2003–2005

Objectives: To continue progress toward economic inclusion (based on full employment, consistent economic development that is socially and environmentally sustainable, social inclusion and a commitment to social justice, and continuing adaptation to change) by sustaining economic growth and high levels of employment while strengthening the economy's competitiveness.

Provisions: Pay guidelines with strengthened enforcement mechanisms, a commitment to seek specific labor law reforms, enhanced severance pay, and affordable housing targets.

Towards 2016, 2006–2015

Objectives: Fulfill a longer-term vision for Ireland that links social policy and economic prosperity, develops a vibrant knowledge-based economy, increases the integration of the island of Ireland, and successfully handles diversity.

Provisions: Pay guidelines, increased penalties for employment law violators, social welfare payments linked to average wage level, increased provision of affordable housing, child care, and health care, infrastructure spending targets, greater investments in education.

*_Social exclusion_ captures the idea that those in poverty are often excluded not only from jobs but also from political rights, health care, and education. This might stem from racism, religious discrimination, lack of education, being an immigrant, or other reasons.

these agreements: government spending and taxation, unemployment, housing, access to health care, poverty and social exclusion, and education and lifelong learning. Moreover, although the agreements are not legally binding contracts, they provide a public framework to which the parties generally try to adhere. The resulting stability and predictability—for the aggregate economy as well as workplace labor relations—are widely credited with laying the foundation for Ireland's exceptional economic performance during the 1990s and early 2000s.[37] How thoroughly this climate of partnership has extended to the workplace, however, can be questioned.[38]

Various forms of social partnerships or corporatism have been prevalent, albeit not continuously, in smaller European countries such as Austria, Belgium, Denmark, the Netherlands, Norway, and Switzerland.[39] The benefits of the participation of labor, business, government, and other groups in developing a national plan for both economic and social development are inclusion, stability, predictability, and a climate of consensus rather than conflict. Government policy can also be depoliticized because labor and business are involved in establishing economic and social policy.[40] For unions, a social partnership arrangement provides greater social relevance as the voice for all workers, and perhaps for consumers and taxpayers as well. This voice is on a national level, however, not in the workplace, and unions need to be careful not to lose their workplace voice. Echoing the workplace-level debates over unions and high-performance work systems (Chapter 10), there can be a fine line for unions in a social partnership arrangement between collaboration and "selling out."[41] Lastly, although social partnerships can promote stability and consensus, the centralized nature of this form of labor relations is under pressure at the workplace level as management seeks greater flexibility, increased prevalence of pay for performance, and other decentralized, efficiency-enhancing human resource management innovations.

FRANCE

Labor relations in France consist of an interesting mixture of militant, often politically oriented unions but weak collective bargaining, very low union density, very high contract coverage by industry-level agreements, and several mechanisms for workplace-level representation.[42] As Table 12.5 shows, there are seven major union federations; recall that

[37] Lucio Baccaro and Marco Simoni, "Centralized Wage Bargaining and the 'Celtic Tiger' Phenomenon," *Industrial Relations* 46 (July 2007), pp. 426–55; and Paul Teague and Jimmy Donaghey, "Why Has Irish Social Partnership Survived?" *British Journal of Industrial Relations* 47 (March 2009), pp. 55–78.

[38] Patrick Gunnigle, "More Rhetoric Than Reality: Enterprise Level Industrial Relations Partnerships in Ireland," *The Economic and Social Review* 28 (October 1997), pp. 179–200; and Paul Teague and James Donaghey, "The Irish Experiment in Social Partnership," in Harry C. Katz, Wonduck Lee, and Joohee Lee (eds.), *The New Structure of Labor Relations: Tripartism and Decentralization* (Ithaca, NY: Cornell University Press, 2004), pp. 10–36.

[39] Anthony Ferner and Richard Hyman (eds.), *Changing Industrial Relations in Europe* (Oxford: Blackwell Publishers, 1998).

[40] Roche, "Social Partnership in Ireland and the New Social Pacts"; and Slomp, *Between Bargaining and Politics.*

[41] Richard Hyman, *Understanding European Trade Unionism: Between Market, Class and Society* (London: Sage, 2001).

[42] Unless otherwise noted, this section draws heavily on these two sources: Anthony Daley, "The Hollowing Out of French Unions: Politics and Industrial Relations after 1981," in Andrew Martin and George Ross (eds.), *The Brave New World of European Labor: European Trade Unions at the Millennium* (New York: Berghahn Books, 1999), pp. 167–216; and Janine Goetschy, "France: The Limits of Reform," in Anthony Ferner and Richard Hyman (eds.), *Changing Industrial Relations in Europe* (Oxford: Blackwell Publishers, 1998), pp. 357–94.

TABLE 12.5
French Union Confederations

	Membership	Works Committees Elections
Industrial Unions		
Confédération générale du travail (CGT)—General Confederation of Labor *Traditionally communist though moving away from Marxist orthodoxy.*	800,000	22.1%
Confédération française democratique du travail (CFDT)—French Democratic Confederation of Labor *Radical support of worker control in 1960s, but recently a more moderate focus on union adaptation to economic change.*	850,000	22.6
Force ouvriére (FO)—Workers' Strength *Anti-communist and militant.*	270,000	12.7
Confédération française des travailleurs chrétiens (CFTC)—French Confederation of Christian Workers *Christian orientation, anti–class struggle, pro–collective bargaining.*	100,000	6.7
Occupational Unions		
Union nationale des syndicats autonomes (USNA)—National Federation of Independent Unions *Mostly public sector workers, especially teachers.*	350,000	Has only sectoral-level representative status.
Confédération française de l'encadrement–Confédération générale des cadres (CFE–CGC)—French Confederation of Professional and Managerial Staff–General Confederation of Managerial Staffs *Focus on economic issues for engineers, technicians, supervisors, sales representatives, and others.*	80,000	6.6
Fédération syndicale unitaire (FSU)—Unitary Union Federation *Primarily teachers with more of a left-wing orientation than those affiliated with the USNA.*	150,000	Has only sectoral-level representative status.
	Others:	6.1
	Nonunion:	23.2

Sources: Janine Goetschy and Annette Jobert, "Employment Relations in France," in Greg J. Bamber, Russell D. Lansbury, and Nick Wailes (eds.), *International and Comparative Employment Relations: Globalisation and the Developed Market Economies* (London: Sage, 2004), pp. 176–210; and "2003 Works Council Election Results and New Worker Representation Rules for SMEs," *EIRO On-line* (Dublin: European Foundation for the Improvement of Living and Working Conditions, 2005), available at www.eiro.eurofound.eu.int/2005/10/feature/fr0510103f.html [accessed July 15, 2006]. Membership and election statistics are circa 2002–2003.

the United States (between 1955 and 2005), Britain, and Ireland each had or have one. Unlike the U.S. emphasis on business unionism, the French union federations often have distinct political or ideological perspectives. The CGT has traditionally been communist and therefore has conveyed Communist Party priorities to the working class, though it is moving away from this platform. While also becoming more pragmatic in recent years, the FO and CFDT have traditionally been associated with socialist ideals of worker control; the CFTC has a Christian orientation. The CFTC supports collective bargaining—but note that in general terms, communist and socialist unions have not always supported collective bargaining because signing a contract limits worker freedom and legitimizes capitalism.[43] With such sharp ideological differences between unions, and between labor and employers, a stable social partnership arrangement is nearly impossible to achieve. Rather, political mobilization and political strikes motivated by each union's ideological focus have been as important as, if not more important than, collective bargaining in French labor relations. For example, brief national strikes and massive protests by workers and students—sometimes involving more than a million protesters—in 2006 caused the French government to withdraw a legislative proposal that would make it easier for companies to dismiss younger workers. In 2009, similar one-day national "Black Thursday" strikes were called to protest the government's handling of the economic recession and to demand increased social spending. As such, France is an example of political or **ideological unionism.** Other southern European countries such as Italy and Spain are broadly similar in this regard. Moreover, this is a pluralist model of political unionism rather than a corporatist model: Unlike in the Irish social partnerships, the French unions (as "outsiders") pressure the government to enact policies favorable to the unions' agendas rather than participating directly in policymaking (as "insiders").

Continuing competitive and economic problems led to government initiatives to regularize French labor relations, and since the 1980s collective bargaining and workplace representation have increased in importance. Bargaining takes place on three levels: multi-industry, industry, and company. The multi-industry and industry agreements provide the broad parameters and minimum standards for individual companies to follow regarding flexibility and working time (multi-industry) and pay (industry). Company-level agreements implement specific pay and working conditions provisions. Note that there is no exclusive representation: French law mandates company-level bargaining regardless of whether a majority of employees authorize a single union as their representative. Thus, an employer may negotiate with a committee composed of individuals from various unions. Moreover, as is true in a number of other European countries, French law allows industry agreements to be extended to all companies within the same industry irrespective of the number of union members (if any) at a specific company. Thus, while union density is low, the fraction of workers covered by collective bargaining agreements is high. On the other hand, collective bargaining agreements in France are weak by U.S. standards—though this is perhaps offset by national legislation that often favors workers, such as a 35-hour workweek.

Lastly, French law provides for several forms of workplace-level employee representation separate from labor unions. Employee delegates are required to handle grievances and to monitor the enforcement of both labor laws and collective bargaining agreements. Works committees are entitled to information and consultation on workplace and companywide decisions (see the discussion of German codetermination in the next section). Employee delegates and works committee representatives are elected via secret ballot by all workers. The union confederations listed in Table 12.5 (excepting the USNA and FSU) are entitled to provide the first slate of candidates, but as shown in Table 12.5, nearly one-quarter of works committee

[43] Hyman, *Understanding European Trade Unionism.*

representatives are not members of a union. A single works committee likely has members of different unions. French labor law also guarantees workers a right of expression, so workers are entitled to voice their opinions regarding the nature of their work. How French law struggles with trying to balance efficiency, equity, and voice is captured by this description of reforms in the early 1980s: "The Auroux laws were intended to foster a mutual learning process within the enterprise, with employers becoming more aware of their social employment responsibilities and unions more attentive to the firm's economic constraints."[44]

GERMANY

The labor relations system of Germany is best known for its system of codetermination, but this important feature must be understood in conjunction with a second major feature, sector bargaining. In contrast to France, there is one dominant union federation, *Deutscher Gewerkschaftsbund* (DGB, German Trade Union Confederation), that accounts for over 80 percent of German union membership and has eight affiliated unions, each of which represents a specific industry.[45] Employer federations are also organized by industry. As such, each major industry or sector has a dominant employer association and union, and these two bodies engage in **sector bargaining**—industrywide bargaining that produces a contract for the entire sector.

Sector bargaining often takes place at a regional level, but it is tightly coordinated by the national organizations, and the first regional agreement sets a strong pattern for the other regions. For example, a regional branch of *Gesamtmetall,* the metal and electrical industry employers' association, and the regional branch of *IG Metall,* the metal and electrical industry union, will negotiate basic agreements on wages, pay structures, working time, and working conditions under the direction of their parent organizations. These agreements establish minimum labor standards that apply to *all* members of the employers' association—the number of union members at each company is unimportant. Moreover, the agreements can be extended to other companies by the government. As such, the contract coverage rate (approximately 65 percent) is much higher than the union membership rate (approximately 25 percent).[46] Strikes are illegal during the life of an agreement. A company cannot invalidate the contract by leaving the employers' association, so it is difficult to become nonunion in Germany.[47] As in many other countries, competitive forces are pressuring the German collective bargaining system to become more decentralized. Thus, local exceptions to the industry standards are increasing, and some companies have negotiated independently rather than through their employers' association—Volkswagen is a prominent example; but because of strong traditions and institutions, such deviations are still exceptional.[48] Increased outsourcing to subcontractors that fall outside the sectoral bargaining agreements is another threat to the stability of the traditional sector bargaining system.[49]

[44] Goetschy, "France," p. 379.

[45] Berndt K. Keller, "Employment Relations in Germany," in Greg J. Bamber, Russell D. Lansbury, and Nick Wailes (eds.), *International and Comparative Employment Relations: Globalisation and the Developed Market Economies* (London: Sage, 2004), pp. 211–53.

[46] Visser, "Union Membership Statistics in 24 Countries."

[47] Katz and Darbishire, *Converging Divergences*; and Gerhard Bosch, "The Changing Nature of Collective Bargaining in Germany: Coordinated Decentralization," in Harry C. Katz, Wonduck Lee, and Joohee Lee (eds.), *The New Structure of Labor Relations: Tripartism and Decentralization* (Ithaca, NY: Cornell University Press, 2004), pp. 84–118.

[48] Bosch, "The Changing Nature of Collective Bargaining in Germany."

[49] Virginia Doellgast and Ian Greer, "Vertical Disintegration and the Disorganization of German Industrial Relations," *British Journal of Industrial Relations* 45 (March 2007), pp. 55–76.

Centralized collective bargaining in Germany is complemented in the workplace by **codetermination**—an institutionalized system of employee voice in which employees are entitled to participate in workplace decision making. German codetermination has two components: works councils and employee representation on corporate supervisory boards. A **works council** is a workplace-level committee of employees elected to represent all the workers (except senior executives)—skilled and unskilled, blue- and white-collar, union members and nonmembers—in dealings with management. Works councils in various forms are also found in France, Spain, the Netherlands, Austria, Italy, and Belgium, but the German example is perhaps the best known.[50] German law entitles all workers in companies with at least five employees to form a works council if some employees wish; generally only 5 percent of the employees need to sign a list of candidates to trigger an election of employee representatives to a works council (or a minimum of two employees in very small establishments and a maximum of 50 in large workplaces). Do not confuse this with a drawn-out and sharply contested NLRB representation election as in the United States (Chapter 6)—"once the procedure is initiated by employees, the election of a works council is to all intents and purposes automatic."[51] More than 90 percent of establishments with at least 500 employees have works councils, but fewer than 10 percent of small establishments do; changes to the German Works Constitution Act in 2001 therefore further simplified the election process in small establishments.[52]

German works councils have codetermination, consultation, and information rights regarding various workplace issues and are legally distinct from unions—their existence does not depend on a local union presence. Nevertheless, in practice union members are likely to be active in the works councils, and unions help provide training and expertise.[53] The size of works councils varies with the size of the workforce: A 500-person establishment has an 11-member works council (including one full-time member), whereas a 5,000-person establishment has a 29-person works council (including seven full-time members). The works council must meet with the employer at least once a month, and the company pays for the works council's expenses. Companies with multiple establishments must also establish companywide works councils. The law mandates that "the employer and the works councils shall work together in a spirit of mutual trust . . . for the good of the employees and of the establishment." A works council cannot strike, but it can sue if the employer does not fulfill its legal obligations of codetermination, consultation, and information provision.

Granting codetermination rights to works councils means that a company must jointly determine with the works council issues pertaining to work rules and discipline, daily working hours, leave schedules, performance-based pay and bonuses, overtime, safety and health, training, and personnel selection methods (see Table 12.6). In other words, on these matters the employer cannot take action without the agreement of the works council. Negotiated agreements on codetermined issues are incorporated into works agreements. The second set of rights granted to works councils are consultation rights—the works council

[50] Ferner and Hyman, *Changing Industrial Relations in Europe*; Joel Rogers and Wolfgang Streeck (eds.), *Works Councils: Consultation, Representation, and Cooperation in Industrial Relations* (Chicago: University of Chicago Press, 1995); and Mark Carley, Annalisa Baradel, and Christian Welz, "Works Councils: Workplace Representation and Participation Structures," *EIRO Thematic Features* (Dublin: European Foundation for the Improvement of Living and Working Conditions, 2005), available at www.eiro.eurofound.eu.int/other_reports/works%20councils_final.pdf [accessed July 16, 2006].

[51] John T. Addison et al., "The Reform of the German Works Constitution Act: A Critical Assessment," *Industrial Relations* 43 (April 2004), pp. 392–420 at 398.

[52] Addison et al., "The Reform of the German Works Constitution Act."

[53] Walther Müller-Jentsch, "Germany: From Collective Voice to Co-Management," in Joel Rogers and Wolfgang Streeck (eds.), *Works Councils: Consultation, Representation, and Cooperation in Industrial Relations* (Chicago: University of Chicago Press, 1995), pp. 53–78.

TABLE 12.6
Excerpts from the German Works Constitution Act

74. **Principles of collaboration**
(1) The employer and the works council shall meet together at least once a month for joint conferences. They shall discuss the matters at issue with an earnest desire to reach agreement and make suggestions for settling their differences.
(2) Industrial action between the employer and the works council shall be unlawful; the foregoing shall not apply to industrial action between collective bargaining parties. The employer and the works council shall refrain from activities that interfere with operations or imperil the peace in the establishment.

85. **Works council's role in dealing with grievances**
(1) The works council shall hear employees' grievances and, if they appear justified, induce the employer to remedy them.

Social Matters
87. **Right of codetermination**
(1) The works council shall have a right of codetermination in the following matters insofar as they are not prescribed by legislation or collective agreement:

1. Matters relating to the order by operation of the establishment and the conduct of employees in the establishment.
2. The commencement and termination of the daily working hours, including breaks and the distribution of working hours among the days of the week.
3. Any temporary reduction or extension of the hours normally worked in the establishment.
4. The time and place for and the form of payment of remuneration.
5. The establishment of general principles for leave arrangements and the preparation of the leave schedule as well as fixing the time at which the leave is to be taken by individual employees, if no agreement is reached between the employer and the employees concerned.
6. The introduction and use of technical devices designed to monitor the behavior or performance of the employees.
7. Arrangements for the prevention of employment accidents and occupational diseases and for the protection of health on the basis of legislation or safety regulations.
8. The form, structuring, and administration of social services whose scope is limited to the establishment, company, or combine.
9. The assignment of and notice to vacate accommodation that is rented to employees in view of their employment relationship as well as the general fixing of the conditions for the use of such accommodation.
10. Questions related to remuneration arrangements in the establishment, including in particular the establishment of principles of remuneration and the introduction and application of new remuneration methods or modification of existing methods.
11. The fixing of job and bonus rates and comparable performance-related remuneration including cash coefficients.
12. Principles for suggestion schemes in the establishment.
13. Principles governing the performance of group work; group work within the meaning of this provision is defined as a group of employees performing a complex task within the establishment's workflows, which has been assigned to it and is executed in a largely autonomous way.

Structuring, Organization, and Design of Jobs, Operations, and the Working Environment
90. **Information and consultation rights**
(1) The employer shall inform the works council in due time of any plans concerning

1. the construction, alteration, or extension of works, offices, and other premises belonging to the establishment;
2. technical plants;

TABLE 12.6
(Continued)

3. working procedures and operations or
4. jobs

and submit the necessary documents.
(2) The employer shall consult the works council in good time on the action envisaged and its effects on the employees, taking particular account of its impact on the nature of their work and the resultant demands on the employees so that suggestions and objections on the part of the works council can be taken into account in the plans.

91. **Right of codetermination**
Where a special burden is imposed on the employees as a result of changes in jobs, operations, or the working environment that are in obvious contradiction to the established findings of ergonomics relating to the tailoring of jobs to meet human requirements, the works council may request appropriate action to obviate, relieve, or compensate for the additional stress thus imposed.

92. **Manpower planning**
(1) The employer shall inform the works council in full and in good time of matters relating to manpower planning including in particular present and future manpower needs and the resulting staff movements and vocational training measures and supply the relevant documentation. He shall consult the works council on the nature and extent of the action required and means of avoiding hardship.

95. **Guidelines for selection**
(1) Guidelines for the selection of employees for recruitment, transfer, regrading, and dismissal shall require the approval of the works council.

98. **Implementation of vocational training in the establishment**
(1) The works council shall participate in the decisions relating to the implementation of vocational training programs in the establishment.

102. **Codetermination in the case of dismissal**
(1) The works council shall be consulted before every dismissal. The employer shall indicate to the works council the reasons for dismissal. Any notice of dismissal that is given without consulting the works council shall be null and void.

Financial Matters
106. **Finance committee**
(1) A finance committee shall be established in all companies that normally have more than 100 permanent employees. It shall be the duty of the finance committee to consult with the employer on financial matters and report to the works council.
(2) The employer shall inform the finance committee in full and in good time of the financial affairs of the company and supply the relevant documentation insofar as there is no risk of disclosing the trade or business secrets of the company and demonstrate the implications for manpower planning.

111. **Alterations**
In establishments that normally have more than 20 employees with voting rights the employer shall inform the works council in full and in good time of any proposed alterations which may entail substantial prejudice to the staff or a large sector thereof and consult the works council on the proposed alterations.

must be consulted before an employer changes the nature of its work. And third, a firm's works council must be given financial information about the firm's balance sheet, investment and marketing plans, and other corporate intentions (see Table 12.6).

Remember that industrywide collective bargaining agreements specify minimum standards and other broad parameters for the workplace. As such, works councils are left to

work out specific details, especially pertaining to implementation issues, for each workplace.[54] Moreover, when the labor market is strong, some works councils are able to negotiate extra wage increases; conversely, when a firm's financial health is weak, some works councils agree to concessions below the collective bargaining agreement's standards ("wildcat cooperation").[55] Works councils are also viewed as generally supportive of workplace changes and the implementation of new processes and technologies if the company and its workforce will be strengthened, and management can utilize works councils to help implement such changes.[56] German companies are introducing the same types of flexible work systems as in other countries, but the legal rights of works councils—which again are independent of union membership—give them the power to ensure that employee interests are represented when these changes are implemented.[57] Research on works councils fails to uncover significant effects on economic efficiency; in other words, it is difficult to conclude that works councils either improve or harm productivity, employee turnover, investment, and the like.[58] Supporters of works councils, however, see them as mechanisms for providing equity and especially voice, but not efficiency.

Complementing works councils is the other major component of German codetermination: employee representation on corporate supervisory boards. German corporations have two boards for managing the company: A management board controls the daily management of the firm and reports to the higher-level supervisory board, which sets strategic policies and appoints upper-level managers. The supervisory board generally meets four times per year. Depending on the size of the company, one-third to one-half of the supervisory board members are representatives of the employees. German supervisory boards are less powerful than U.S. boards of directors, but employee representation nevertheless gives workers a voice in strategic decisions.[59] In the United States unions occasionally obtain a single board seat, often as part of a significant package of employee wage and work rule concessions; but significant board-level representation is mandated by law in Germany.

Finally, note that because union membership is not linked to industry-level collective agreements, workplace-level works council representation, or supervisory board representation, the decision to join a union is different than in the United States. In Europe "joining a trade union is as much an act of political commitment as it is a step to support collective bargaining. It is more an act of solidarity than simply a means to secure personal gains."[60] Similarly, European unions traditionally have not focused solely on winning economic improvements for their members. Rather, advocacy of broad working-class interests—either within capitalism or in opposition to it—and integration of workers into

[54] Müller-Jentsch, "Germany."

[55] Otto Jacobi, Berndt Keller, and Walther Müller-Jentsch, "Germany: Facing New Challenges," in Anthony Ferner and Richard Hyman (eds.), *Changing Industrial Relations in Europe* (Oxford: Blackwell Publishers, 1998), pp. 190–238.

[56] Müller-Jentsch, "Germany."

[57] Katz and Darbishire, *Converging Divergences*; and Lowell Turner, *Democracy at Work: Changing World Markets and the Future of Labor Unions* (Ithaca, NY: Cornell University Press, 1991).

[58] Addison et al., "The Reform of the German Works Constitution Act"; John T. Addison, Claus Schnabel, and Joachim Wagner, "The Course of Research into the Economic Consequences of German Works Councils," *British Journal of Industrial Relations* 42 (June 2004), pp. 255–81; and John T. Addison et al., "Do Works Councils Inhibit Investment?" *Industrial and Labor Relations Review* 60 (January 2007), pp. 187–203.

[59] Kirsten S. Wever, *Negotiating Competitiveness: Employment Relations and Organizational Innovation in Germany and the United States* (Boston: Harvard Business School Press, 1995); and Felix FitzRoy and Kornelius Kraft, "Co-determination, Efficiency and Productivity," *British Journal of Industrial Relations* 43 (June 2005), pp. 233–47.

[60] Slomp, *Between Bargaining and Politics*, pp. 21–22.

broader political movements have been as important as, and frequently more important than, collective bargaining.[61]

SWEDEN

The major dimensions of labor relations in Sweden and the other Nordic countries appear broadly similar to those in Germany: A high contract coverage rate and a dual representation structure with centralized, industrywide collective bargaining and strong workplace representation.[62] An important difference, however, is that while workplace representation in Germany is institutionalized by law in the form of works councils that are technically independent of labor unions, until recently workplace representation in Sweden has been institutionalized by culture and tradition in the form of strong workplace-level unions. Like the United States, workplace representation in Sweden relies on unions; unlike the United States, union density in Sweden is high (close to 80 percent), so workplace representation is widespread. As in other countries around the world, economic pressures are causing greater decentralization in bargaining: Peak-level negotiations have been sporadic since 1980, industrywide agreements have become less detailed, and local agreements have become both more important and more diverse.[63] The traditional goal of the Swedish labor movement was a "solidaristic wage policy" that consisted of equal pay for equal work across companies (making company ability to pay unimportant) and a compression of wage outcomes within an establishment. New forms of work organization, however, have reoriented this objective more toward a "solidaristic work policy" in which unions are involved in transforming work to ensure that workers as well as companies benefit from these changes.[64] In particular, the solidaristic work policy advocates self-directed work teams, training, job and skill development, and compensation for skills and responsibilities. The extent to which U.S. unions might also be less resistant to workplace change if they had the institutional and cultural security of Swedish unions is a thought-provoking question.

EASTERN EUROPE

After World War II, labor relations in the Soviet Union and the communist countries of eastern Europe were characterized by **Stalinist unionism,** named for the Soviet dictator Joseph Stalin.[65] In centrally planned Stalinist economies, managers of state-owned enterprises

[61] Hyman, *Understanding European Trade Unionism;* and Slomp, *Between Bargaining and Politics.*

[62] Anders Kjellberg, "Sweden: Restoring the Model?" in Anthony Ferner and Richard Hyman (eds.), *Changing Industrial Relations in Europe* (Oxford: Blackwell Publishers, 1998), pp. 74–117.

[63] Katz and Darbishire, *Converging Divergences;* Kjellberg, "Sweden"; and Olle Hammarström, Tony Huzzard, and Tommy Nilsson, "Employment Relations in Sweden," in Greg J. Bamber, Russell D. Lansbury, and Nick Wailes (eds.), *International and Comparative Employment Relations: Globalisation and the Developed Market Economies* (London: Sage, 2004), pp. 254–76.

[64] Rianne Mahon, "'Yesterday's Modern Times Are No Longer Modern:' Swedish Unions Confront the Double Shift," in Andrew Martin and George Ross (eds.), *The Brave New World of European Labor: European Trade Unions at the Millennium* (New York: Berghahn Books, 1999), pp. 126–66; and Åke Sandberg, "Justice at Work: Solidaristic Work Policy as a Renewal of the Swedish Labor Market Model?" *Social Justice* 21 (Winter 1994), pp. 102–14.

[65] Simon Clarke and Peter Fairbrother, "Post-Communism and the Emergence of Industrial Relations in the Workplace," in Richard Hyman and Anthony Ferner (eds.), *New Frontiers in European Industrial Relations* (Oxford: Blackwell Publishers, 1994), pp. 368–97; Derek C. Jones, "The Transformation of Labor Unions in Eastern Europe: The Case of Bulgaria," *Industrial and Labor Relations Review* 45 (April 1992), pp. 452–70; and Hans Slomp, Jacques van Hoof, and Hans Moerel, "The Transformation of Industrial Relations in Some Central and Eastern European Countries," in Joris Van Ruysseveldt and Jelle Visser (eds.), *Industrial Relations in Europe: Traditions and Transitions* (London: Sage, 1996), pp. 337–57.

and unions were both controlled by the government (the Communist Party). Unions were a critical part of this economic and political system, primarily to transmit the Communist Party's agenda to the working class (the common phrase is that unions are the Party's "transmission belt"). In the workplace, unions in a Stalinist system had dual roles: to facilitate the state's production goals (such as through maintaining discipline) and to protect individual workers from abusive managers (such as by refusing to approve employee dismissals).[66] As transmission belts of the Communist Party, unions emphasized the first role much more than the second. Unions also administered the government's various social benefits, such as housing and recreational programs, and therefore membership rates were very high (approaching 100 percent). There was no collective bargaining because wages and other terms of employment were determined by central planners—"the official trade unions in the Soviet Union were never designed to represent workers' interests, since official ideology held that there could be no conflict of interests between the working class and its vanguard that ran the economy, the Communist Party."[67] As such, strikes and independent unions were illegal. Unions were tightly controlled by the Communist Party, typically structured along industry lines, and, following the model of the Communist Party, very centralized.

There were some deviations from this strict model during the Cold War—for example in Hungary and most visibly in Poland. Led by electrician Lech Walesa, 17,000 workers conducted a sit-down strike at the Lenin Shipyards in Gdansk, Poland, in 1980.[68] The most important demand of the strikers was the right to form free labor unions independent of the Communist Party, and thus the Solidarity union (*Solidarność*) was born. The strike was a major victory, and Solidarity's membership jumped to 10 million workers. In 1981 additional strikes were used to pressure the Polish government for free elections. However, under pressure from the Soviet Union, the Polish government imposed martial law in December 1981, outlawed Solidarity, and jailed its leaders. Strikes in 1988 again pressured the government to legalize Solidarity, and it was allowed to participate in free elections in 1989. Solidarity was very successful in these elections and was able to form a coalition government. Walesa won the Nobel Peace Prize in 1983 and in 1990 became Poland's first popularly elected president.

In addition to the Solidarity movement in Poland, the fall of the Berlin Wall in 1989 marked the end of communist East Germany; by the end of that year, communism was collapsing throughout eastern Europe. In 1991, the Soviet Union dissolved into Russia and a number of independent states. These events were triggered by the Solidarity movement, which underscores the power of collective action and the need for independent labor movements in society. All of these countries, however, have been struggling with the transition to capitalist, free market economies and democratic, pluralistic political systems since that time. Stable systems of labor relations have yet to emerge, and unions have struggled to find their most effective roles in the new transitional economies.[69] Are they workplace advocates, or independent political representatives of the working class in a pluralist political system, or part of governing coalitions responsible for shaping new economic and political institutions?

[66] Robert J. Flanagan, " Institutional Reformation in Eastern Europe," *Industrial Relations* 37 (July 1998), pp. 337–57.

[67] Sarah Ashwin, "Social Partnership or a 'Complete Sellout'? Russian Trade Unions' Responses to Conflict," *British Journal of Industrial Relations* 42 (March 2004), pp. 23–46 at 24.

[68] Lawrence Goodwyn, *Breaking the Barrier: The Rise of Solidarity in Poland* (New York: Oxford University Press, 1991).

[69] Heribert Kohl and Hans-Wolfgang Platzer, *Industrial Relations in Central and Eastern Europe: Transformation and Integration—A Comparison of the Eight New EU Member States* (Pete Burgess, transl.) (Brussels: European Trade Union Institute, 2004).

Collective bargaining, economic strikes, and independent labor unions have been legalized in eastern Europe. The emergence of independent unions has resulted in significant interunion competition, though in many countries the largest unions continue as reformed versions of the earlier communist unions.[70] Because of the traditional importance of the government in economic affairs in these countries before the collapse of communism, the governments of many postcommunist countries remain actively involved in economic activities generally and in labor relations specifically. Tripartite bodies involving unions, employers' associations (albeit nominally because private ownership is still emerging), and the government have therefore been used in Bulgaria, Hungary, and elsewhere.[71] As in other social partnerships (recall the earlier discussion of Ireland), such arrangements have dealt with establishing wage guidelines, reforming labor law, and dispute resolution. These accomplishments might be more symbolic than real, however, and political and economic instability, interunion competition, and a legacy of dependence on management and the state undermine the prospects for successful social partnerships in the years to come.[72]

The Stalinist model left behind a legacy of weak unions at the enterprise and workplace levels with no experience in collective bargaining and with little rank-and-file involvement. Enterprise-level collective bargaining is now emerging but remains in its infancy because of this weak history and because many enterprises are still state-owned.[73] Thus bargaining is still often conducted with the government, and wage settlements reflect political power and maneuverings rather than economic conditions and bargaining tactics. Works councils have been implemented in Hungary, but elsewhere they either were not legislated or were enacted and then repealed; and unions are struggling to develop influence in the workplace. Unions have frequently been marginalized in industries that have been privatized and turned over to private ownership. It will be interesting to watch what types of employment systems emerge when the eastern European economies develop greater economic and political stability and to see whether unions have a significant role to play. Will existing Western systems be adopted, or will new methods for balancing efficiency, equity, and voice be created?

AUSTRALIA AND NEW ZEALAND

Whereas unions in Germany and Sweden are organized primarily along industry lines, unions in Australia were traditionally organized mostly on a craft or occupational basis. Unions typically had members in more than one industry, and managers often had to deal with multiple unions—in the 1980s the average number of unions per Australian firm was 12.[74] Union density, however, has declined sharply since the mid-1970s from above 50 percent

[70] Flanagan, "Institutional Reformation in Eastern Europe"; and Slomp, van Hoof, and Moerel, "The Transformation of Industrial Relations in Some Central and Eastern European Countries."

[71] Lajos Héthy, "Tripartism in Eastern Europe," in Richard Hyman and Anthony Ferner (eds.), *New Frontiers in European Industrial Relations* (Oxford: Blackwell Publishers, 1994), pp. 312–36.

[72] Paul Thompson and Franz Traxler, "The Transformation of Industrial Relations in Postsocialist Economies," in Gerd Schienstock, Paul Thompson, and Franz Traxler (eds.), *Industrial Relations between Command and Market: A Comparative Analysis of Eastern Europe and China* (New York: Nova Science Publishers, 1997), pp. 291–314; and Ashwin, "Social Partnership or a 'Complete Sellout'?"

[73] Denis MacShane, "The Changing Contours of Trade Unionism in Eastern Europe and the CIS," in Richard Hyman and Anthony Ferner (eds.), *New Frontiers in European Industrial Relations* (Oxford: Blackwell Publishers, 1994), pp. 337–67; and Gerd Schienstock, Paul Thompson, and Franz Traxler (eds.), *Industrial Relations between Command and Market: A Comparative Analysis of Eastern Europe and China* (New York: Nova Science Publishers, 1997).

[74] John Niland and Dennis Turner, *Control, Consensus, or Chaos? Managers and Industrial Relations Reform* (Sydney: Allen and Unwin, 1985).

to around 25 percent.[75] Consequently, since the late 1980s the Australian labor movement has actively pursued union mergers and amalgamations to transform a relatively large number of small unions into a smaller number of industry-based or general unions. By 1995 nearly all union members belonged to one of 20 unions.[76] This strategy attempts to counter the decline in union density by increasing the number of services that larger, industry-focused unions can provide to potential members.[77] Such merger activity, however, raises the same issue that faces the U.S. labor movement: how to balance union strength with responsiveness to the needs of individual workers and workplaces (see the accompanying "Labor Relations Application" box).

The drive to increase the power of Australian unions through rationalization along industry lines also stems from the trend toward decentralization of Australian labor relations. A main feature of labor relations in Australia has traditionally been a centralized system of arbitration awards. In this **awards system** a federal or state arbitration commission (or tribunal) issues an award that specifies the minimum standards for pay and working conditions, often for an occupation. This arbitration system dates back to the early 1900s and was devised to prevent strikes. For a number of years the basic federal award established a minimum wage for unskilled workers to fulfill "the normal needs of an average employee, regarded as a human being living in a civilized community" based on a family of five. Wage differentials for skilled occupations were established relative to this basic wage award. The federal awards established the pattern for state and industry-level awards. In tight labor markets unions were successful in using collective bargaining with individual employers to negotiate "over-award" pay more generous than the arbitration awards. Working conditions were established separately from the arbitration awards through workplace-level bargaining, often informally and with high levels of wildcat strikes. But because of the importance of the national and regional awards, overall this was a very centralized system of labor relations in which arbitration, not collective bargaining, was the centerpiece.

In the late 1980s, Australian labor relations started pushing away from centralized awards toward greater decentralization and enterprise-level bargaining. This effort was the product of both the government (due to macroeconomic problems such as an exchange rate crisis) and employers (to improve labor–management cooperation, flexibility, and responsiveness to firm-specific conditions). In other words, Australia has also struggled with globalization, decentralization, and flexibility. In the 1990s, the role of the federal arbitration commission shifted away from issuing awards (except for a national minimum wage) to approving enterprise-level agreements negotiated through collective bargaining and finally to ensuring only that enterprise-level agreements meet a few minimum standards. Moreover, Australian workplace agreements—nonunion agreements negotiated by employers directly with employees—were allowed.[78] The Work Choices Act in 2005 replaced the federal arbitration commission with an Australian Fair Pay Commission and furthered the earlier trends toward greater use of workplace agreements with fewer binding standards.

[75] Russell D. Lansbury and Nick Wailes, "Employment Relations in Australia," in Greg J. Bamber, Russell D. Lansbury, and Nick Wailes (eds.), *International and Comparative Employment Relations: Globalisation and the Developed Market Economies* (London: Sage, 2004), pp. 119–45.

[76] Lansbury and Wailes, "Employment Relations in Australia."

[77] Braham Dabscheck, *The Struggle for Australian Industrial Relations* (Melbourne: Oxford University Press, 1995).

[78] Katz and Darbishire, *Converging Divergences;* and Marian Baird and Russell D. Lansbury, "The Changing Structure of Collective Bargaining in Australia," in Harry C. Katz, Wonduck Lee, and Joohee Lee (eds.), *The New Structure of Labor Relations: Tripartism and Decentralization* (Ithaca, NY: Cornell University Press, 2004), pp. 166–91.

Labor Relations Application Australian Union Mergers

In response to declining union density and increasing decentralization in labor relations, Australian unions have aggressively merged and amalgamated since the late 1980s. The goal of these mergers is to produce larger unions with greater resources that are more powerful and better able to provide services to members. However, there is a trade-off between power and centralization on one hand and grassroots participation and responsiveness to local needs on the other. The experience of the Musicians' Union of Australia (MUA) highlights these conflicts.

The MUA represents approximately 5,000 musicians, vocalists, musical producers, and others in the music business and includes members in symphony orchestras, jazz ensembles, and rock bands. The union has a decentralized structure with nine branches that largely control their own activities and finances. This structure parallels the nature of its members' employment: Most are employed together in small groups at clubs, hotels, and other local venues.

As part of the Australian union merger mania of the 1990s, the MUA contemplated merging with two other groups. The MUA considered merging with the Federated Miscellaneous Workers Union—itself a recent amalgamation of the Liquor Trades Union and a union of miscellaneous workers. Because many MUA members work in clubs and hotels, there were some shared interests with the liquor trades, but orchestra members of MUA were not in favor of aligning with this group. The MUA's decentralized structure also conflicted with the centralized structure of the Federated Miscellaneous Workers Union.

The other merger considered by the MUA was with the Media, Entertainment, and Arts Alliance (MEAA)—also a recent amalgamation, in this case between the Actors Equity of Australia, a theatrical employees' union, and a union of journalists. The MUA membership ultimately rejected affiliating with the MEAA for several reasons. Like the Federated Miscellaneous Workers Union (and many others), the MEAA has a centralized structure, and MUA members did not want to lose the autonomy of their local branches. Compounding this fear was the fact that the MEAA was having financial trouble, so MUA members feared that the MEAA was interested in the MUA for its assets. MUA members were also concerned about a loss of influence within a larger union. In particular, MEAA voting rules give more votes to members who have higher income and dues payments; as such, full-time journalists would have more votes than part-time club musicians. Lastly, some bad feelings continued from an earlier dispute in which the actors' union failed to support MUA's fight against allowing dancers represented by the actors' union to dance to taped music—a trend that threatened employment opportunities for MUA-represented musicians. These issues illustrate the conflicts in labor unions around the globe between power through centralization and local responsiveness through decentralization.

Source: Grant Michelson, "Out of Tune? Union Amalgamations and the Musicians Union of Australia," *Journal of Industrial Relations* 39 (September 1997), pp. 303–31.

Opposition to this act, however, led to the defeat of the conservative Liberal Party government in 2007, and many of the changes were rolled back. In 2008, new Australian workplace agreements were banned, and a transition is underway to a new system based on 10 minimum national employment standards for all workers, including maximum weekly hours of work, parental and other leaves, and public holidays. These minimum standards will be complemented by "modern awards" on minimum wages and other issues that will be tailored to the needs of particular industries or occupations, along with a system of enterprise-level collective bargaining. These changes reflect a desire to restore some of the equity and voice that were sacrificed in the pursuit of efficiency between 1987 and 2007—that is, to strike a new balance among efficiency, equity, and voice.

Labor relations in New Zealand exhibit a similar trend, albeit with even more radical reforms. New Zealand's arbitration system dated back to 1894 and operated much like Australia's. A federal arbitration commission issued awards for minimum conditions while collective bargaining, often on a multiemployer basis, established above-award terms. Moreover, an employer could unilaterally establish terms and conditions of employment as long as they exceeded the minimum provisions established by the relevant arbitration award. Unlike the 1987–2007 Australian initiative to decentralize labor relations by weakening the arbitration awards system, New Zealand has pursued decentralization by abolishing its award system.

The 1991 Employment Contracts Act replaced the awards system with voluntarism (recall Great Britain's system described earlier in this chapter). The Employment Contracts Act created a voluntaristic system, so it did not require bargaining of any type—unions could negotiate collective contracts, but only if they had explicit authorization from each worker and if the employer wanted to bargain; otherwise, individual nonunion contracts were used.[79] The Employment Relations Act of 2000 moved New Zealand industrial relations away from a pure voluntarism system. Individual employment contracts are still allowed, but unlike under the 1991 Employment Contracts Act, employers have an obligation to bargain in good faith with a union if a group of employees requests it. It is also illegal for employers to pressure or discriminate against employees in order to encourage or discourage union membership.

JAPAN

The primary institutional feature of Japanese labor relations is enterprise unionism. An **enterprise union,** such as the Hitachi Workers' Union, represents only workers in a single company (enterprise). The dominant type of enterprise union in Japan represents *all* regular (not temporary or part-time) employees in a single company, including white-collar workers except higher-level managers. At some companies, however, several enterprise unions coexist and compete; but even in these cases, each union represents only workers within the one enterprise.[80] As such, while union density is approximately 20 percent, there are nearly 70,000 labor unions.[81] In addition to a close alignment between enterprises and unions, there are also close ties between management and the union leadership. Supervisors are generally part of the enterprise union, and union leaders are often career-type employees who continue their promotions within the enterprise through the management ranks after being union leaders.

This system of enterprise unionism is embedded in a broader system of human resource management structured around lifetime employment, seniority and firm-based wages, and broad job classifications. These features are not universal, but they have traditionally been central for core employees in large firms. Lifetime employment is an arrangement in which employees normally are never laid off and stay with a single firm until retirement. Cyclical and seasonal burdens are shifted to temporary workers who are not covered by this implicit—not contractual—lifetime employment tradition (and are usually not covered by the union either). Wages for regular employees are generally based on seniority plus a large annual bonus that partly reflects firm or industry profitability.[82] Japanese firms also often use broad job classifications, and workers are rotated across jobs to increase their skills. All these features mean that employees identify with an enterprise—its internal labor market and financial performance—not a specific job.

Enterprise unionism fits well with this strong enterprise identification among employees, and Japanese labor relations are often characterized as cooperative or consensual.[83]

[79] Ellen J. Dannin, *Working Free: The Origins and Impact of New Zealand's Employment Contracts Act* (Auckland: Auckland University Press, 1997).

[80] Hirosuke Kawanishi, *Enterprise Unionism in Japan* (London: Keegan Paul International, 1992); and Ross Mouer and Hirosuke Kawanishi, *A Sociology of Work in Japan* (Cambridge, England: Cambridge University Press, 2005).

[81] Yasuo Kuwahara, "Employment Relations in Japan," in Greg J. Bamber, Russell D. Lansbury, and Nick Wailes (eds.), *International and Comparative Employment Relations: Globalisation and the Developed Market Economies* (London: Sage, 2004), pp. 277–305.

[82] Katz and Darbishire, *Converging Divergences.*

[83] Takashi Araki, "The Japanese Model of Employee Representational Participation," *Comparative Labor Law Journal* 15 (Winter 1994), pp. 143–54; and Kuwahara, "Employment Relations in Japan."

Enterprise unions are very concerned with the company's performance and tailor demands and agreements accordingly. A number of companies also have joint labor–management consultation bodies in which information about the firm is shared with employees, and employees are consulted about personnel matters and working conditions. Although enterprise unions are entitled to bargain over wages and working conditions, some argue that a more cooperative and less adversarial relationship can develop if these issues are settled through a consensual approach in a joint consultation committee. By some accounts, joint consultation is therefore more important than collective bargaining in Japanese labor relations.[84] Enterprise-level consultation and bargaining are complemented by an annual wage negotiation process called *Shunto*. Traditionally the Japanese labor movement was successful in using the *Shunto* negotiations to obtain uniform wage increases across companies, but this uniformity has weakened in recent years as companies have successfully increased the linkages between pay and company performance.

The Japanese system is an important contrast to U.S. labor relations. The two countries share a broadly similar labor law framework. In fact, Japanese labor law was established by the U.S. occupation authorities at the end of World War II and is based on the U.S. model of using unfair labor practices to support employee rights to organize and bargain collectively. There is limited use of exclusive representation and majority rule, however.[85] Also, enterprise unions are not mandated by law—there are isolated examples of industrial and other forms of unions in Japan—and have essentially developed within a Wagner Act framework. Because of the economic success of Japan in recent decades, the cooperative model of Japanese labor relations, with high levels of employee participation and union concern for firm profitability, is often advocated as a model for U.S. labor relations. As discussed in Chapter 10, it is often argued that U.S. unions should be more cooperative and do more to enhance productivity and quality. These arguments are frequently rooted in an idealized view of a cooperative and productive Japanese labor relations system of enterprise unionism. On the other hand, what some view as cooperative enterprise unions, others see as management-dominated sham unions. This is a major debate in both countries. For example, the prevalence of enterprise unions in Japan is characterized by some as stemming from worker concern for an efficient enterprise and by others as resulting from management and state suppression of industrial unions in the 1950s.[86] Lastly, note that in a system of enterprise unionism, existing unions have little incentive to organize new unions at other establishments, and overall labor movement solidarity is low.

ASIAN DEVELOPING COUNTRIES

The history of labor relations in the developing countries of Asia parallels the major concerns in other countries. As emphasized in Parts Two and Three of this book, the U.S. labor relations system has evolved from a mid-20th-century emphasis on economic growth through industrial peace to a 21st-century struggle with competitiveness through flexibility. Asian industrial relations are undergoing this same evolution: Earlier policies emphasized industrial peace to promote industrial development, whereas contemporary policies focus on achieving global competitiveness through flexibility.[87] The developing countries

[84] Araki, "The Japanese Model of Employee Representational Participation."

[85] William B. Gould, *Japan's Reshaping of American Labor Law* (Cambridge, MA: MIT Press, 1984).

[86] Araki, "The Japanese Model of Employee Representational Participation"; Kawanishi, *Enterprise Unionism in Japan*; and Dae Yong Jeong and Ruth V. Aguilera, "The Evolution of Enterprise Unionism in Japan: A Sociopolitical Perspective," *British Journal of Industrial Relations* 46 (March 2008), pp. 98–132.

[87] Sarosh Kuruvilla and Christopher L. Erickson, "Change and Transformation in Asian Industrial Relations," *Industrial Relations* 41 (April 2002), pp. 171–227.

of Asia have taken different approaches in designing specific labor systems to promote similar objectives. By this point in the chapter the types of systems found in Asia should be familiar: a high-level tripartite or corporatist model (Singapore—recall Ireland), a pluralist model with varying combinations of political representation and collective bargaining (the Philippines and India—recall Germany, France, Canada, and the United States), and a government control model (Malaysia and Indonesia—recall Mexico), as well as systems that are in flux (China and South Korea—recall eastern Europe).[88]

Within these developing countries, however, the government frequently exercises tighter control over unions and labor relations than in developed countries. In Singapore's tripartite system, unions participate with the government and employers at high levels to craft wage guidelines and various social policies; but control over workplace-level labor relations is exercised through restrictions on bargaining items, limitations on strikes, and government approval of collective bargaining agreements (agreements not deemed consistent with Singapore's economic development interests can be rejected).[89] Moreover, the labor movement is closely intertwined with the ruling political party, and in the early 1980s the government (not the unions) restructured the labor movement by forming Japanese-style enterprise unions. Similarly, the early postwar labor relations system in the Philippines was inherited from its colonial ruler—the United States—but evolved into a system with greater government control.[90] Changes in the 1970s restricted strikes, allowed permanent strike replacements, and required unions to belong to a single government-controlled federation. Government control over labor relations is more explicit in Malaysia and Indonesia. In Malaysia, for example, the government controls the structure and size of unions by selectively approving or rejecting the required union registration applications and has used this administrative power to force Japanese-style enterprise unions rather than industrial unions.[91] In the export-focused electronics industry in particular, the government has used the registration requirements to keep unions weak.[92]

An important underlying thread in all these developing country models of labor relations is the subservience of labor relations to the country's industrial development strategy.[93] When the Philippines was pursuing an import substitution strategy in which domestic industries were protected from foreign competition, a pluralist labor relations model was allowed because international cost competitiveness was not critical. But when the industrial development strategy switched to an emphasis on exports, the government stepped in with greater control over labor relations to keep costs low and attract foreign investment.

[88] Sarosh Kuruvilla and C.S. Venkataratnam, "Economic Development and Industrial Relations: The Case of South and Southeast Asia," *Industrial Relations Journal* 27 (March 1996), pp. 9–23.

[89] Sarosh Kuruvilla, "Linkages between Industrialization Strategies and Industrial Relations/Human Resource Policies: Singapore, Malaysia, the Philippines, and India," *Industrial and Labor Relations Review* 49 (July 1996), pp. 635–57.

[90] Kuruvilla, "Linkages between Industrialization Strategies and Industrial Relations/Human Resource Policies."

[91] Stephen J. Frenkel and David Peetz, "Globalization and Industrial Relations in East Asia: A Three-Country Comparison," *Industrial Relations* 37 (July 1998), pp. 282–310; and Wesley J. Hiers and Ponniah Arudsothy, "From Ostensible Voluntarism to Interventionism in Malaysian Industrial Relations: The Colonial Experience as an Important Variable," in Sarosh Kuruvilla and Bryan Mundell (eds.), *Colonialism, Nationalism, and the Institutionalization of Industrial Relations in the Third World* (Stamford, CT: JAI Press, 1999), pp. 103–54.

[92] Kuruvilla, "Linkages between Industrialization Strategies and Industrial Relations/Human Resource Policies."

[93] Sarosh Kuruvilla, "Economic Development Strategies, Industrial Relations Policies, and Workplace IR/HR Practices in Southeast Asia," in Kirsten S. Wever and Lowell Turner (eds.), *The Comparative Political Economy of Industrial Relations* (Madison, WI: Industrial Relations Research Association, 1995), pp. 115–50; and Kuruvilla, "Linkages between Industrialization Strategies and Industrial Relations/Human Resource Policies."

The supremacy of industrial development strategies underlies another theme in developing country labor relations: appearance versus reality. Malaysian law, for example, might appear to allow collective bargaining, but in reality government control of union registration can be manipulated to keep unions weak, as we also discussed for Mexico earlier in this chapter. Labor union subservience to governmental political regimes and developmental policies is also a common theme in African labor relations.[94]

Finally, several Asian developing countries are experiencing significant economic or political transitions similar to the situation in eastern Europe. Perhaps most notably, the Republic of Korea (South Korea) became a democracy in 1987, and China's economic system has been moving from state socialism to a mixed economy with elements of private ownership and competition. In Korea, political democratization loosened the government's grip on labor relations—unions were given greater freedoms to strike, and collective bargaining became more important.[95] Note, however, that a second labor federation that challenged the longtime government-recognized federation was not legalized until 1999. Korean labor relations are therefore still in transition—made more difficult by the Asian financial crisis of the late 1990s and the resulting job losses.

In China, change has been driven by economic rather than political change. While the economic system is moving from socialism to a mixed economy (sometimes called market socialism) as in eastern Europe, there is little loosening of the Communist Party's control over the political system.[96] Before the start of this economic transition in the 1980s, labor relations were similar to the eastern European Stalinist model, and unions served as transmission belts for the Communist Party. The weakening of the party's control over economic activities and the growth of private ownership and market mechanisms mean that the transmission function is probably less important; but organized labor is not yet completely free, and as in many other countries, economic development trumps labor rights. New labor laws in 1994 ostensibly promote collective bargaining, but close relationships between union leaders and the Communist Party remain, there is only one legal union federation (the All-China Federation of Trade Unions or ACFTU), and strikes are still restricted.[97] Independent union representation is also undermined by the emphasis in Chinese labor law on regulating outcomes rather than promoting processes, such as collective bargaining, that require the Communist Party to give up some control.[98] On paper, unions are mandatory in foreign-owned businesses, but this is not universally enforced by local authorities fearful of losing foreign investment.[99] Moreover, in workplaces where unions are present, they are generally dependent on and integrated with management. Remember that communism and

[94] Frank M. Horwitz, "Industrial Relations in Africa," in Michael J. Morley, Patrick Gunnigle, and David G. Collins (eds.), *Global Industrial Relations* (New York: Routledge, 2006), pp. 178–98; and Gérard Kester, *Trade Unions and Workplace Democracy in Africa* (Aldershot, Hampshire, UK: Ashgate, 2007).

[95] Kuruvilla and Erickson, "Change and Transformation in Asian Industrial Relations"; Wonduck Lee and Joohee Lee, "Will the Model of Uncoordinated Decentralization Persist? Changes in Korean Industrial Relations after the Financial Crisis," in Harry C. Katz, Wonduck Lee, and Joohee Lee (eds.), *The New Structure of Labor Relations: Tripartism and Decentralization* (Ithaca, NY: Cornell University Press, 2004), pp. 143–65; and Young-bum Park and Chris Leggett, "Employment Relations in the Republic of Korea," in Greg J. Bamber, Russell D. Lansbury, and Nick Wailes (eds.), *International and Comparative Employment Relations: Globalisation and the Developed Market Economies* (London: Sage, 2004), pp. 306–28.

[96] Trini Wing-Yue Leung, "Trade Unions and Labor Relations under Market Socialism in China," in Gerd Schienstock, Paul Thompson, and Franz Traxler (eds.), *Industrial Relations between Command and Market: A Comparative Analysis of Eastern Europe and China* (New York: Nova Science Publishers, 1997), pp. 239–89; and Bill Taylor, Chang Kai, and Li Qi, *Industrial Relations in China* (Cheltenham, England: Edward Elgar, 2003).

[97] Frenkel and Peetz, "Globalization and Industrial Relations in East Asia."

[98] Taylor et al., *Industrial Relations in China.*

[99] Kuruvilla and Erickson, "Change and Transformation in Asian Industrial Relations."

socialism were seen as solving capitalism's deep-seated conflict between capital and labor; in other words, the official ideology of communist and socialist states insists that communism and socialism achieve a unitarist employment relationship (recall Chapter 2) where the interests of workers, managers, and the state are aligned. Thus unions in China have no experience with, or even conception of, representing workers' interests in opposition to employers' interests as in a pluralist employment relationship.[100] In fact, while the ACFTU is probably the world's largest labor movement with perhaps 100 million members, it might also be the world's largest "paper tiger" because the ACFTU is more of a quasi-government organ than a labor union.[101]

BARGAINING OR LEGISLATING LABOR STANDARDS?

From these descriptions of labor relations systems in different countries, it is apparent that there are numerous possibilities for structuring labor relations (see Table 12.7). The U.S. emphasis on exclusive representation and majority support is often absent outside North America. Consultation between labor and management through peak-level organizations at a national level and through works councils at a workplace level occurs throughout Europe. Some countries have centralized industrywide bargaining arrangements while others focus on enterprise-level unions. Moreover, while U.S. union contracts are highly complex, legally enforceable documents that specify a wide range of employment terms, in many

TABLE 12.7 Common Dimensions of Industrialized Labor Relations Systems around the Globe

Dimension	Features	Examples
Centralized		
Social partnership	Peak-level labor, business, and government agreements on broad economic and social issues.	Austria, Finland, Ireland, Sweden.
Sector bargaining	Collective bargaining with employers' associations to produce industrywide contracts.	France, Germany, Sweden.
Centralized awards	Occupational arbitration awards.	Australia, New Zealand (pre-1991).
Decentralized		
Enterprise unionism	Unions limited to one company.	Japan.
Exclusive representation/ majority rule*	Representation and bargaining only if a union represents a majority of the employees.	Canada, United States.
Codetermination	Workplace-level shared decision making including works councils and board-level representation.	France, Germany, Sweden.
Voluntarism*	Representation and bargaining based on economic power, not legal backing.	Great Britain, Ireland, New Zealand (1991–2000).

*Bargaining in a system of exclusive representation or voluntarism can be centralized or decentralized depending on the parties, but it is commonly decentralized.

[100] Simon Clarke, Chang-Hee Lee, and Qi Li, "Collective Consultation and Industrial Relations in China," *British Journal of Industrial Relations* 42 (June 2004), pp. 235–54.

[101] Leung, "Trade Unions and Labor Relations under Market Socialism in China," p. 264; and Taylor et al., *Industrial Relations in China*, p. 207.

other countries union agreements provide more of a skeletal specification of minimum terms. In some countries, union contracts are not legally enforceable.

The political activities of the labor movement in many countries outside the United States are also at least as important as their workplace activities, if not more so. Rather than the U.S. labor movement's philosophy of business unionism, European labor movements often embrace social movement unionism. Gains for workers are won through social and political activism as well as through bargaining with employers, and unions are often closely aligned with left-wing political parties.[102] In Great Britain, the Trades Union Congress founded the Labour Party. One of the major parties that sometimes rules Australia is the Australian Labor Party. In Sweden and Germany, the labor movement is closely aligned with social democratic parties. French and Italian unions are closely connected with communist and socialist political parties, and political strikes to win gains for workers are common. Advocates of a stronger U.S. labor movement see this type of political and social activism as the avenue to more power.[103] Such activism can bolster the labor movement's voice in the political arena and can result in laws supporting union activities.

Political strength can also result in labor standards that are legislated for all workers rather than confined to workers covered by collective bargaining. Outside the United States, many employment conditions, especially employee benefits, are established by government regulations. For example, while the United States does not mandate any vacation days, workers in Sweden are entitled to 32, those in Spain to 30, and those in Germany to 18.[104] The importance of legislated rather than negotiated labor standards is further demonstrated by job security protections. U.S. workers are subject to the employment-at-will doctrine and can therefore be laid off or fired at any time. In addition to legislative restrictions against discriminatory discharge, the major exception to this doctrine is a just cause provision in a union contract. Thus only the 15 percent of U.S. workers covered by union contracts are protected against dismissals except for valid reasons related to job performance or economic conditions. This contrasts starkly with the widespread unjust dismissal protections granted by national legislation in much of the rest of the industrialized democratic world. Legislation in many countries also limits employers' abilities to lay off workers.

In Germany, for example, after a six-month probationary period, only "socially justified" employee discharges are legal. In other words, employees can be dismissed only with just cause due to poor performance or economic necessity; discharge must be justified by "the conduct of the employee or by pressing reasons connected with the enterprise." Note that in contrast to the United States, this protection is provided by law and does not depend on union representation. Disputes are resolved by a federal labor court, and coverage is nearly universal. Belgium, France, Great Britain (except for part-time or temporary workers), Italy, and Spain all have legislative protections similar to those found in Germany.[105] In Mexico, after a 30-day probationary period, employees may be laid off for economic reasons or dismissed only for just cause—and these protections are written into Mexico's constitution.[106] In Japan, the doctrine of abusive dismissal protects workers against unjust

[102] Hyman, *Understanding European Trade Unionism.*

[103] Gregory Mantsios (ed.), *A New Labor Movement for the New Century* (New York: Garland, 1998); Kim Moody, *An Injury to All: The Decline of American Unionism* (London: Verso, 1988); Ray M. Tillman and Michael S. Cummings (eds.), *The Transformation of U.S. Unions: Voices, Visions, and Strategies from the Grassroots* (Boulder, CO: Lynne Rienner Publishers, 1999); and Rick Fantasia and Kim Voss, *Hard Work: Remaking the American Labor Movement* (Berkeley: University of California Press, 2004).

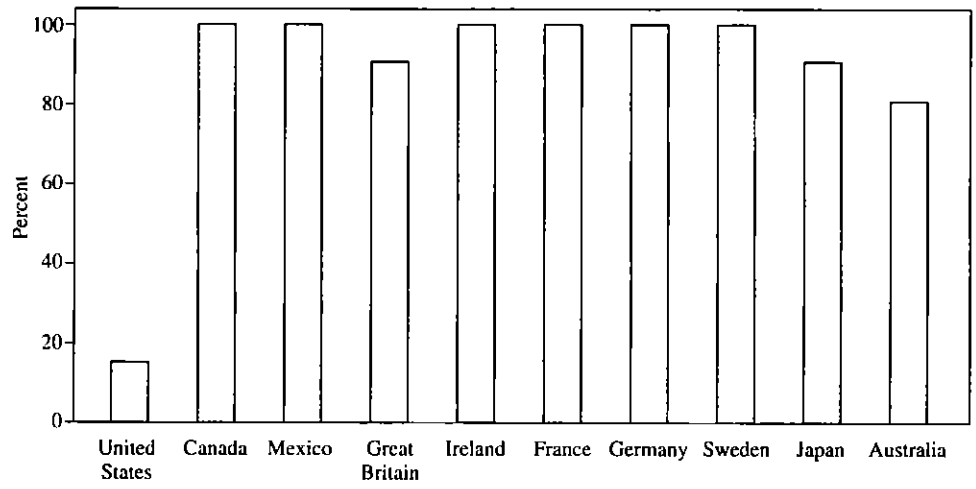
[104] Lawrence Mishel, Jared Bernstein, and John Schmitt, *The State of Working America, 2000–2001* (Ithaca, NY: ILR Press, 2001).

[105] Hoyt N. Wheeler, Brian S. Klaas, and Douglas M. Mahony, *Workplace Justice without Unions* (Kalamazoo, MI: W.E. Upjohn Institute for Employment Research, 2004).

[106] Befort and Cornett, "Beyond the Rhetoric of the NAFTA Treaty Debate."

FIGURE 12.1
Employees Covered by Unjust Dismissal Protections

Source: See text.



dismissal. This doctrine has been extended to all employees with the exception of short-term, contract employees who have not yet had their initial contracts renewed.[107] Even in Canada, employees must either be dismissed for just cause or given several weeks of advance notice.[108] In other words, the United States stands alone with its low level of protection against unjust dismissal (see Figure 12.1). But in many countries, such protection was obtained through the legislative rather than the bargaining process. This political aspect of comparative labor relations should not be overlooked, and an important question for the future is whether labor standards should be negotiated or legislated (or neither).

GLOBALIZATION RECONSIDERED

Analyzing national labor relations systems from around the world is important. A comparative approach provides rich material for thinking broadly about the underlying labor relations problem of balancing efficiency, equity, and voice. Examining the pros and cons of other countries' policies and practices can aid efforts to reform law and practice in the United States to better strike this balance. And understanding how labor relations work in other countries is vital for managers and union leaders whose professional activities involve other countries.

But recall from the previous chapter that a major feature of the labor relations environment in nearly every country is globalization. Globalization raises a key question for comparative labor relations in the 21st century: In an integrated world economy, is it possible to have unique national labor relations systems, or does integration force convergence of national institutions? In a competitive world, free trade should harmonize labor standards if countries with higher standards have higher labor costs and are unable to compete with lower-cost countries. If certain labor relations practices are more productive than others, competitive pressures are expected to cause others to adopt those practices—such as U.S.

[107] Vai Io Lo, "Atypical Employment: A Comparison of Japan and the United States," *Comparative Labor Law Journal* 17 (Spring 1996), pp. 492–525; and Kazuo Sugeno, *Japanese Employment and Labor Law,* Leo Kantowitz (trans.) (Durham, NC: Carolina Academic Press, 2002).

[108] James C. Oakley, "Employee Duty of Loyalty—A Canadian Perspective," *Comparative Labor Law Journal* 20 (Winter 1999), pp. 185–203; and Alexander J.S. Colvin, "Flexibility and Fairness in Liberal Market Economies: The Comparative Impact of the Legal Environment and High-Performance Work Systems," *British Journal of Industrial Relations* 26 (March 2006), pp. 73–97.

attempts to emulate the more cooperative style of Japanese labor relations. More ambitious efforts at political and legal as well as economic integration, such as in the European Union, should further weaken national differences as common standards and policies are enacted. The **convergence thesis** predicts that labor relations practices and policies across countries will converge to a common set of practices and policies, and national differences will disappear.

The evidence, however, does not support this convergence thesis.[109] In particular, arguably the most important effects of globalization on labor relations across many countries are declining union strength and intense corporate pressures for increased workplace flexibility (Chapter 10). These factors have caused increased decentralization of labor relations activities in many countries.[110] Even though collective bargaining in Germany, for example, has traditionally been much more centralized than in the United States, the bargaining structure in both countries has become more decentralized than in earlier years. This decentralization is key: Increasing decentralization causes local labor relations practices to *diverge* as companies and local workplaces experiment and try to tailor employment practices to the specific needs and constraints of individual workplaces. Uniform convergence, therefore, is not occurring. However, several standard models appear to be followed across workplaces, such as an antiunion, low-wage approach, a traditional human resource management approach, and a high-performance work systems approach. Thus, labor relations practices within countries are becoming more diverse but are simultaneously embracing several common patterns. In other words, rather than a strict convergence, there appears to be "converging divergences."[111]

Increased divergence on a local level as well as convergence can undermine the importance of national-level labor relations systems.[112] So in the face of globalization and decentralization, does it continue to make sense to discuss *national* labor relations systems? In a word, yes. The laws and institutions that characterize the labor relations systems of different countries shape the choices faced by companies and unions as they confront competitive pressures. National-level institutions are therefore still important determinants of labor relations practices and employment outcomes.[113] Even in the European Union (EU), the greatest convergence toward uniformity has been in minimum standards through European-wide directives for health and safety requirements, gender equity, and other labor standards.[114] With the limited exception of the European Works Councils mandate (Chapter 11), EU policies have not erased national differences in the labor relations processes

[109] Stephen Frenkel and Sarosh Kuruvilla, "Logics of Action, Globalization, and Changing Employment Relations in China, India, Malaysia, and the Philippines," *Industrial and Labor Relations Review* 55 (July 2002), pp. 387–412; Katz and Darbishire, *Converging Divergences*; and Richard M. Locke, "The Demise of the National Union in Italy: Lessons for Comparative Industrial Relations Theory," *Industrial and Labor Relations Review* 45 (January 1992), pp. 229–49.

[110] Harry C. Katz, "The Decentralization of Collective Bargaining: A Literature Review and Comparative Analysis," *Industrial and Labor Relations Review* 47 (October 1993), pp. 3–22; and Harry C. Katz, Wonduck Lee, and Joohee Lee (eds.), *The New Structure of Labor Relations: Tripartism and Decentralization* (Ithaca, NY: Cornell University Press, 2004).

[111] Katz and Darbishire, *Converging Divergences;* and Paul Marginson and Keith Sisson, *European Integration and Industrial Relations: Multi-Level Governance in the Making* (London: Palgrave/Macmillan, 2004).

[112] Locke, "The Demise of the National Union in Italy."

[113] Frenkel and Peetz, "Globalization and Industrial Relations in East Asia"; Katz and Darbishire, *Converging Divergences*; Colvin, "Flexibility and Fairness in Liberal Market Economies"; and John Godard, "Institutional Environments, Employer Practices, and States in Liberal Market Economies," *Industrial Relations* 41 (April 2002), pp. 249–86.

[114] Slomp, *Between Bargaining and Politics.*

in individual countries; instead, employment relationships in Europe and elsewhere are increasingly characterized by a multilevel system of governance with important institutions and outcomes embedded in the workplace, company, sector, national, *and* supranational levels.[115]

In sum, globalization is causing converging divergences of labor relations practices across countries through pressures for decentralization and flexibility. National-level institutions nevertheless remain important for shaping the responses of companies and unions to these pressures. Studying labor relations in different countries is therefore still an important component of understanding labor relations. Moreover, these local practices and national institutions can be evaluated against the objectives of efficiency, equity, and voice.[116] Comparative labor relations therefore reveals numerous labor relations possibilities for tackling the challenges of the 21st-century employment relationship and striking an effective balance between the objectives of employers and workers.

Key Terms

voluntarism, *423*
social partnership, *429*
ideological unionism, *433*
sector bargaining, *434*
codetermination, *435*
works council, *435*
Stalinist unionism, *439*
awards system, *442*
enterprise union, *444*
convergence thesis, *451*

Reflection Questions

1. In moments of frustration, some U.S. labor leaders have claimed that U.S. unions would be better off with a deregulation of labor law and a return to the "law of the jungle." How would a return to voluntarism affect U.S. unions? Workers? Employers?
2. What might be the pros and cons of adopting the German system of mandatory works councils in the United States?
3. Are Japanese-style enterprise unions effective vehicles of voice that align worker interests with firm interests, or are they weak, company-dominated, sham unions? Explain your response.
4. Labor unions can be important players in three different political systems: pluralism, corporatism, and communism. Give examples of each and describe the key roles of unions. What are the pros and cons of pluralism and corporatism for both organized labor and employers? Should U.S. unions play a stronger role in U.S. politics?

[115] Marginson and Sisson, *European Integration and Industrial Relations.*

[116] John W. Budd, *Employment with a Human Face: Balancing Efficiency, Equity, and Voice* (Ithaca, NY: Cornell University Press, 2004).