

Representative Workers' Participation and Social Dialogue: Germany vs. Taiwan

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Abstract

This paper compares the differences in the experiences of institutionalizing representative workers' participation between Germany and Taiwan and attempts to shed light on the role of social dialogue in the developments of industrial democracy. Our model posits that the successful developments of representative workers' participation depend upon the productive social dialogue in which industrial relations actors interact to negotiate new rules and regulations governing labor relations in a constructive and reciprocal way. For such dialogue to take place, favorable institutional environments should exist to facilitate mutual trust and agreements among industrial relations parties. German postwar experiences in representative workers' participation seem to support our arguments, while the case of Taiwan tends to imply that a lack of such dialogue and complementary institutional factors lead to unsuccessful democratic developments in industrial relations.

Keywords: labor movement, industrial democracy, workers' participation, comparative industrial relations.

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1. Introduction

'Industrial democracy' is one of the most important issues in labor relations. In many countries, both developed and developing, it has been regarded as the primary goal by organized labor to advance its influence over social, personnel and economic aspects at societal, enterprise and workplace levels. This issue has also led to heated debates among industrial relations actors regarding its applicability and the possibility of its implementation in many societies. Though never perfectly realized in industry and/or at the workplace, democracy has been, to certain extent, furthered in the forms of representative participation in some European countries during the postwar ear, notably the co-determination (*Mitbestimmung*) system in the former West Germany (hereafter Germany).

Thanks to its adaptability to environmental changes in the past decades, the German co-determination system has been regarded as one of the crucial contributors to its postwar economic and social performance. Envyng the German success, organized labor in some countries has attempted to advocate the notion of representative workers' participation and to emulate the German co-determination system as a new model of labor regime. Taiwan is one of them where organized labor recently attempted to institutionalize employee representation on the board of directors during the privatizing of government-owned enterprises. In the case of Taiwan, organized labor's endeavor to further the concept of representative workers' participation was not successful due to existing institutional barriers impeding productive social interactions and exchanges among industrial relations actors. In contrast, the developments of representative workers' participation in the postwar Germany were through relatively long-term interactions among social partners though industrial conflicts were not completely absent. The German experiences seem to suggest that the relative success in the developments of representative workers' participation in a society is contingent upon 'productive social dialogue,' characterized by continuously negotiated

adjustments and accommodations, among major social actors, and its interplay with certain complementary institutions. The cry for representative workers' participation in Taiwan is just in its infancy and its future advancement remains uncertain if such social dialogue and institutions will not evolve. In this regard, German postwar experiences could provide a good lesson to Taiwan's industrial relations. Using a historical comparative approach, this study attempts to shed light on this argument by comparing the recent struggle of organized labor for institutionalizing representative workers' participation in Taiwan and the postwar experiences of democratic developments in German industrial relations, in particular during 1949-1976.

This paper is organized as below. Section 2 discusses in some detail types and functions of social dialogue and its relationships with the developments of industrial democracy. A model is proposed here for the purpose of analyzing the relationships. The next section compares the differences in channels for employees' interest representation between Germany and Taiwan. The major focus of this section is on the mechanisms that facilitate the productive social dialogue and their implications for furthering democratic developments at different levels in industrial relations. Section 4 elaborates complementary institutional factors that support the productive social dialogue. These institutional factors reinforce one another to form a 'bundle' of prerequisites for the developments of industrial democracy. Conclusions are made in Section 5.

2. Representative Workers' Participation and Social Dialogue

2.1 Representative workers' participation: toward a definition

The concept of representative workers' participation refers to the formal and informal rights possessed by workers to exert influence over issues related to their own interests in management. In practice, it calls for workers' participation in decision making at different levels in industrial

relations. Some scholars and practitioners hold a broad perspective on the definition of industrial democracy, arguing that it can take a variety of forms, depending on the level and scope of participation exercised and on the route by which effective workers' participation is attained (e.g., Lin, 1996). However, caution must be made concerning this optimistically broad view. Among many participatory schemes increasingly implemented at the workplace (Hyman and Mason, 1995), many forms of participation do not entail a real control and influence enjoyed by workers over issues related to their interests at the workplace. In the case of quality-related activities, they are usually implemented unilaterally by management for such efficiency purposes as quality improvements, quick response to the demands of the product market, productivity enhancement, and so forth, but not directly related to workers' interests at the workplace (Han, 1997). Also, employee share ownership, an increasingly popular form of employee participation in financial returns, may not entail control rights held by workers as employee stock ownership plans (ESOPs) have demonstrated (Ben-Ner, Han and Jones, 1996). It remains suspicious that these forms of workers' participation can help advance representative workers' participation in a meaningful way.

Thus, we adopt a more restrictive view of representative workers' participation and define it as *de facto* rights held by workers to exert control over social, personnel and economic matters related to their own interests. These rights are usually granted by legal institutions and/or safeguarded by a strong labor movement in a society. Mandated co-determination systems in some European countries can be regarded as a representative example of this type of definition, though they are not ideal types and vary enormously in the degree of influence across nations. The scope of participatory rights guaranteed by laws and their degrees of influence can provide a yardstick for measuring the extent of the implementation of representative workers' participation in a society.

To be an effective and sustainable workers' representative scheme, *de facto* democratic participation requires some mechanisms for industrial relations parties to engage in reciprocal exchanges in which these parties share control and responsibilities for company performance. As we will see

in the third section, such mechanisms are conducive to productive social interactions which, in turn, benefit the long-term viability of representative workers' participation in a society.

2.2 Productive social dialogue and its functions

The productive social dialogue in industrial relations, broadly defined, refers to ongoing discussions and negotiations, in a constructive and reciprocal way, among industrial relations parties to adjust their demands against the interests of one another. It may take place not only in the process of collective bargaining in a traditional sense, but also during all kinds of formal and informal meetings to discuss and negotiate issues related to labor relations among the social partners at all levels in industrial relations (Birk, 1998). Nonetheless, not all forms of dialogue among social actors are constructive and reciprocal. Some may even lead to deep misunderstanding among parties which could reinforce mutual distrust and further hinder healthy interactions in the long run, in particular the one in which the parties are not, essentially or even symbolically, on the equal footing and the dominant party is strongly paternalistic. For social dialogue to be productive, the parties in the relations must have incentives and are willing to engage in cooperative bargaining and negotiations, which emphasize the utilization of an integrative, or positive-sum way to resolve conflicts between labor and management. The cooperative bargaining and negotiations assume a underlying common interest between the parties which overrides particular interests, entailing a long-term and high-trust perspective (Bean, 1994). In contrast, in those countries with adversarial industrial relations, parties always engage in a distributive and zero-sum bargaining. Although there have been no 'ideal types' of cooperative bargaining and negotiations, some countries, adopting a 'social partner approach,' fall within this category. It is argued that cooperative bargaining predominates mainly in the Nordic countries, Germany, Austria, Switzerland and Japan, while adversarial bargaining is characteristic of the United State, the United Kingdom, France, and other Latin American countries. The differences in the nature of industrial relations are associated with the strategies adopted by the actors, which are in turn

influenced by cultural and ideological attitudes, the power of labor, employers' strength, and bargaining structure (Bean, 1994).

The productive social dialogue performs certain functions conducive to the developments of industrial democracy. First and foremost, it provides an effective and reliable channel for problem-oriented communication among industrial relations parties (Birk, 1998). Through such channel, the voices associated with workers' concerns can be heard and taken seriously by other parties, thereby helping further the notion of industrial democracy. Secondly, it serves as a mechanism for the negotiation and enforcement of collective agreements, as illustrated by effective collective bargaining and works councils. This mechanism can protect workers' interests and thus facilitate democratic developments in industrial relations. Thirdly, the productive social dialogue can reduce the conflicts of interests among the parties because its nature of reciprocity enhances mutual understanding and trust. The improved labor-management relations tend to lower the intentions of both parties to engage in industrial warfare and then sustain workers' participation in decision making. Finally, such dialogue facilitates the accommodation and reconciliation of concerns as well as cooperation among the parties, which is favorable for compromise or consensus making. Without such compromise or consensus among the parties, viable forms of representative workers' participation cannot be sustained in the long run.

2.3 Model of the developments of industrial democracy: the role of social dialogue

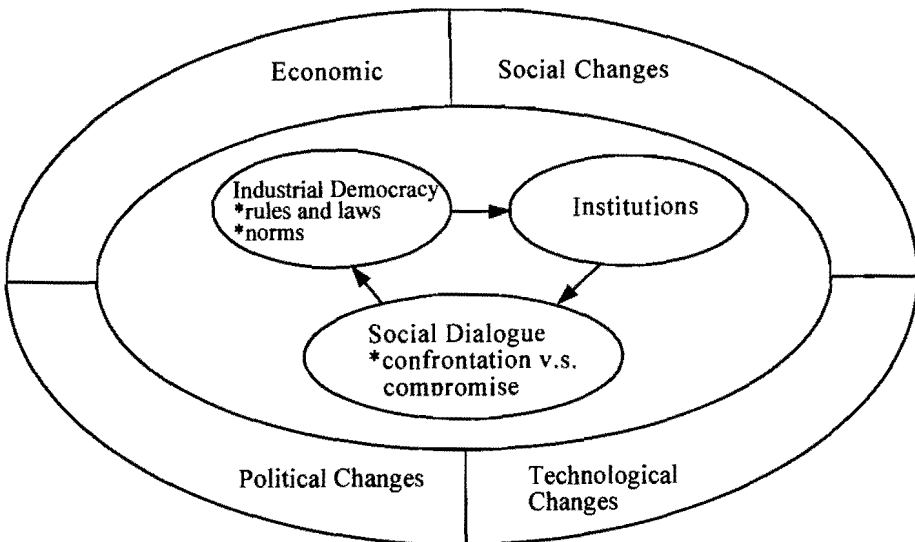
In this section, we propose a model for analyzing the developments of industrial democracy, with an emphasis on the interplay between the productive social dialogue and its institutional environments. Based on Dunlop's framework of Industrial Relations System, parties in industrial relations interact and negotiate rules and procedures governing labor-management relations in the system. One of major outcomes in Dunlop's framework is rule-making in industrial relations. Drawing from this framework, this paper extends to discuss the interactions among industrial

relations parties to construct social institutions that nurture labor-management relations within the organization, focusing on the role of productive social dialogue. Empirical evidence that supports the facilitating role of social dialogue on the development of industrial democracy comes from German industrial relations. Birk (1998) argues that social dialogue in Germany play an important role in effectuating works councils and board representation in German enterprises. Based on the above-mentioned theoretical and empirical literature, this paper develops a model positing that social actors, under environmental changes external to the organization, interact to negotiate new rules and regulations governing labor relations. These phenomena have manifested in technological and structural changes in many countries since the early 1980s (Thelen, 1991; Wever, 1995). Though confronted with similar challenges, countries differed in the way industrial relations actors interacted to resolve problems. The nature of social interactions has implications for advancing industrial democracy. In countries with cooperative industrial relations, the parties were more willing to engage in productive dialogue. Capital and the state were more likely to tolerate and accept a higher degree of employee representation, especially when such representation schemes were beneficial to management such as German works councils. However, in industrial relations systems characterized by adversarialism and substantial power imbalance, the dominant parties, oftentimes capital and the state, had few incentives to accept the competing party with weak power as a legitimate partner in the relations. They even initiated industrial warfare to resume their primacy when challenged by their competing party. The party at the disadvantaged position, in return, reacted to this offense by developing distrustful attitudes towards other parties and engaging in uncooperative behaviors.

Further, this model posits that productive social dialogue is affected by existing institutional environments in which such dialogue is embedded. Institutional environments favorable to this dialogue help generate mutual trust among industrial relations parties and facilitate agreements in rule making (e.g., mandated workers' participation), while those impeding such dialogue may evoke distrust which erects barriers to mutual accommodations and consensus in institutionalizing industrial democracy.

This mutual trust increases organizational flexibility that is beneficial to all parties involved (Lorenz, 1992). Only when the benefits associated with mandated representative participation outweigh the costs of having it would the parties be likely to accept and sustain the participatory system. Across time, this mandated representative participation may reinforce the existing institutional factors that provide the basis for the productive social dialogue in the future. And this dialogue helps advance the notion of representative workers' participation in the long run. Thus, our model of the developments of representative workers' participation represents a cyclical relationship among rule or law making, the productive social dialogue, and complementary institutional factors as depicted in Figure 1.

Figure 1 Cyclical Model of the Development of Industrial Democracy



In this study, we would adopt this model to compare the experiences of the developments of representative workers' participation between Germany and Taiwan. To gauge the advancements of representative workers' participation in a society, two of crucial criteria can be used, including the existence of legal institutions improving workers' participation rights and effective representative mechanisms facilitating ongoing communications and mutual accommodations among industrial relations actors. These two areas are the major focus of the comparisons of the developments of representative workers' participation between these two countries in this paper.

3. Social dialogue in practice: Germany vs. Taiwan

In the context of industrial relations, the productive social dialogue may take place at three levels, including societal, firm, and workplace levels. Nonetheless, some countries may lack of such dialogue at certain levels, in particular at higher levels. This shortage may adversely affect the further developments of democratic participation at lower levels. Table 1 illustrates the comparisons of mechanisms for the social dialogue at different levels in industrial relations between Germany and Taiwan.

Table 1 Social Dialogue at Three Levels: Germany vs. Taiwan

	Germany		Taiwan	
	<i>Mechanisms</i>	<i>Functions</i>	<i>Mechanisms</i>	<i>Functions</i>
SOCIETAL	tripartite structure of negotiation	tripartite structure of negotiation non-existent	N.A.	coordinates policies on major political and economic issues
	collective bargaining between national associations of employers and employees	although there exist national associations of both parties, parity and reciprocal social dialogue has seldom taken place	N.A.	negotiates annual collective bargaining framework agreements
FIRM	board representation	very low incidence of board representation	consultative body, but not influential on a wider scale	shares information on and consults issues concerning workers' interests
	union	union	functions as employee representation in collective bargaining, but ineffective in reality.	consults with works councils
WORKPLACE	work councils	labor-management committees pension committees employee benefit committees workplace safety and health committees	limited right and influence over certain narrow issues such as pension, benefits, as well workplace safety and health.	promotes collaboration between labor and management provides management and workers with a reliable channel for problem-oriented communication helps integrate workers into the firm serves as instruments of negotiated exchange over such "qualitative," nonwage matters as work organization, technological change, personnel policy, and training serves as a mechanism, within the firm, for the enforcement of more encompassing social agreements accommodate concerns and interests of both management and labor and serve to reconcile them in their daily operation foster worker loyalty to the firm by stressing their shared interest with the employer in the firm's success in the marketplace

3.1 Societal level

In Germany, mechanisms for social dialogue have existed and operated since the early 1950s. At societal level, the post-war tripartite structure of negotiations and the centralized collective bargaining represent two major schemes for industrial relations actors to engage in social interactions, which facilitate the democratic developments at the highest level. In contrast, there have been no such equivalent mechanisms in Taiwan. The next two sections compare the differences in social dialogue at the highest level between Germany and Taiwan in more detail.

3.2 German experiences in the postwar era

In Germany, major co-determination laws enacted in the 1950s and the 1970s have become cornerstones of the German industrial relations model and have furthered the concept of representative workers' participation in a significant way. The passage of these laws could be viewed as the consequences of the lengthy trilateral negotiations and compromises. The postwar tripartite structure of negotiations dated back to the late 1940s during the enactment of the Coal and Steel Co-determination Act, and evolved across time due to the interplay of the major parties. One the part of the unions, the reorientation away from the concept of parity co-determination at the societal level towards cooperation within the existing system facilitated the forging of links between the German Trade Union Federation (*Deutscher Gewerkschaftsbund*, DGB) and the government. Furthermore, in the 1950s after long psychic adjustments to the changed postwar situation, the Confederation of German Employers' Associations (*Bundesvereinigung Deutscher Arbeitgeberverbände*, BDA) gradually developed a more conciliatory line and tried to urge its colleagues to view the unions as 'factors of stability' (*Ordnungsfaktoren*) rather than as destroyers of capitalism and parliamentary democracy. In addition, the government recognized the importance of collaboration between labor and capital, and became interested in institutionalizing an informal tripartite mechanism of negotiations (Berghahn and Karsten, 1987).

In the immediate postwar period, the German unions were in a strong position due to the collapse of the Nazi power structures (Schmidt, 1971). In order to prevent the resurgence of ruthless dictatorship and unjust capitalist system, the political parties and the unions called for a fundamental change in the social and economic institutions (Flechtheim, 1973: 157). Under the leadership of Kurt Schumacher, a prisoner in the Nazi concentration camp, the Social Democratic Party (SPD) launched a program aiming at the establishment of a 'democratic socialism,' realizing genuinely democratic principles both in the sphere of politics and of the economy. The first priority of the SPD was to nationalize some industries, such as coal and steel. This nationalization policy also gained widespread support on the shop floor. Furthermore, the unions demanded that they should be the only legitimate representatives of the workforce on the basis of the parity principle at the firm level and above. They called for the establishment of a bilateral or trilateral forum in which the industrial relations parties would meet to discuss issues concerning the macro-economic planning and management of industry (Berghahn, 1986). However, the aspirations of the unions to achieve the goals of parity representation at the super-firm level were decisively undermined by the American occupation authorities that did not support the unions' perspective. After the setback concerning the advancing of the idea of economic democracy at the super-firm level (*überbetriebliche paritätische Mitbestimmung*), the unions were pushed back to concentrate on parity employee representation at the firm level.

The enactment of the 1951 Co-determination Act was also the results of a lengthy process of negotiations, consisting of contacts, discussions, disagreements, conflicts, and compromises. During this period, Chancellor Konrad Adenauer played an important role in bringing both parties of industrial relations into a process of social dialogue and compromises. Realizing that reforms in employee interest representation were very contentious issues, Adenauer thought it wise to stimulate preliminary discussions between the BDA and the DGB for consensus making. Thus, he encouraged both parties to meet and discuss issues concerning reforms in labor regime. Both the BDA and the DGB agreed and held a detailed negotiations in early 1950, which was the first time since the 1920s that

formal discussions regarding major issues took place at the societal level. Although both sides of industry realized the importance of social peace and cooperation in economic reconstruction, they were still under the influence of their deep-seated ideologies. In particular, many employers were unable to accustom themselves to the idea of unionization, not to mention high-degree workers' participation in the firm's decision making which they viewed as an infringement of private ownership and managerial prerogatives. Even some saw a future co-determination act as an opportunity for curbing union power and for rolling back the gains the DGB won after 1945 (Berghahn and Karsten, 1987). During the negotiations, there were serious differences in opinion concerning the degree and scope of workers' participation. The major goal of the unions was to achieve parity co-determination at the firm level and above. However, the employers were only willing to relinquish some rights in matters of welfare and personnel management. When the DGB, led by Viktor Agartz, put forward its detailed proposal, which demanded the extension of the Dinkelbach model to large-scale enterprises in other sectors, the employers completely opposed the extension of this model to other sectors and refused to make any compromises on this matter. As a result, the discussions reached an impasse in April 1950. Under the threat of the strike launched by the I.G. Metall and the encouragement of his advisors and a number of more far-sighted industrialists, Adenauer facilitated another negotiations between the two parties in late 1950. And these negotiations finally led to a compromise and brought about the 1951 Co-determination Act.

After prolonged discussions and negotiations between the state, the unions, and the employers' organizations, the Works Constitution Act (*Betriebsverfassungsgesetz*) was passed in 1952 (Knudsen, 1995). Although the DGB and the Social Democratic Party (SPD) tried to reintroduce the parity principle into the debate once the 1951 Co-determination Act had been ratified, they failed to get the majority support of the parliament for their proposals. The law provided for a minority co-determination in which labor representatives occupied only one-third of the seats in supervisory boards in companies employing more than five hundred employees. The unions also lost on the issue of works councils in

that the 1952 Works Constitution Act did not give the unions a privileged constitutional position in the works council itself or in selecting the works councilors to be members on the supervisory board (Berghahn and Karsten, 1987; Thelen, 1991). In sum, workers' participation granted by the 1952 Act never amounted to parity co-determination and power sharing, and was in the nature of consultation and moderation. Hence, the passage of the act was described by the DGB as 'a black day in the democratic development of the Federal Republic' (Schmidt, 1971). It has been argued that the lack of strong leaders' support and the mobilization of organized labor contributed to the unions' defeat in the 1952 Act (Markovits, 1986). Nevertheless, the significance of the gains obtained by the unions and workers from the act should not be underestimated it that this act, to a greater extent, provided an institutionally secured base for the unions and workers to initiate improvements concerning their interests at firm level or even at societal level (Berghahn and Karsten, 1987: 186).

It was until the late 1960s when the SPD came into power that the unions regained the opportunities to advance workers' participatory rights since the defeat in the 1952 law. In order to defend for centralized bargaining and the union's policy of wage restraint, the I.G. Metall channeled rank-and-file militancy into legislative efforts to strengthen works councils at the workplace level (Thelen, 1991). Under the support of the SPD, two major co-determination laws expanding workers' participation rights at both the firm and workplace levels were passed in 1972 and 1976 (Knudsen, 1995). The passage of these two laws can be regarded as the consequences of prolonged trilateral negotiations and compromises although employers' resistance to the extension of workers' participation rights to higher levels and larger scope, in particular during the enactment of the 1976 Co-determination Act.

3.3 Recent struggle for the institutionalization of employee representation in Taiwan

In Taiwan, the pattern of healthy social dialogue between peak organizations at the societal and economy levels has not been, formally and

informally, shaped due to several institutional barriers. The government's tight control and direct intervention in industrial relations is one of the most important factors leading to such results. Over many years, major economic and social policies related to the interests of workers were unilaterally made by the government, oftentimes in collaboration with employers' representatives, but excluding the involvement of organized labor (Chu, 1992).

Since the early 1980s, Taiwan's labor relations have undergone unprecedented changes. It was in part due to a gradual relaxation of the authoritarian control, long imposed by the ruling party, the Kuomintang (KMT), over the social and political arenas in the post-war period (Hsu, 1994). During the 1980s, the number of industrial disputes increased dramatically and more workers were involved in the disputes, compared to that of previous decades (The Department of Labor-management Relations, Council of Labor Affairs, 1992). Independent labor unions, relatively autonomous from the control and influence exerted by employers and the state, grew in number. However, the legitimacy of these independent unions was not formally recognized by the government. Recent trends of the developments have been towards a large affiliation of these independent unions to form a new confederation of industrial unions, aiming at the replacing of the existent peak union organization, the Chinese Federation of Labor (CFL), as an effective confederation representing industrial workers.

The challenges of organized labor to the existent industrial order in Taiwan culminated in January 1996 when the independent labor union in the privatizing telecommunications company protested against the enactment of the Telecommunications Act, which would liberalize the domestic telecommunications market and 'corporatize' the government-owned telecommunications company. The union advocated actively the implementation of industrial democracy, demanding the legalization of employee representation at the board of directors. This event has a historical significance in Taiwan's industrial relations. First and foremost, organized labor's demand for employee representation on the board of directors directly threatened the base of Taiwanese 'paternalistic' capitalism.

This challenge was, in essence, different from labor unrest of the 1980s, which, in many cases, were associated with disputes over labor contracts, wages and benefits, as well as occupational hazards (Council of Labor Affairs, 1992, 1997). Second, this protest initiated the heated debates on the issue of representative workers' participation and would encourage the labor unions of other privatizing enterprises to pursue this goal. Third, it mobilized thousands of union members to protest against the passage of the Telecommunications Act. The scope of mobilization was greater than that of other labor disputes in previous years. Nonetheless, the union failed to achieve its goal in institutionalizing board representation, even though it was a modest form of co-determination. The failure was mainly due to the opposition of the state to the legalization of co-determination rights pursued by the union.

In Taiwan, organized labor's demand for industrial democracy, primarily the German co-determination model, was a relatively recent event. The origin of this idea could date back to 1992 when the Taiwan Labor Front (TLF), a socialistic labor support organization, drafted the 'Labor Charter,' advocating the idea of industrial democracy. Since then, the concept has increasingly led to heated debates among the industrial relations actors. The Labor Charter was primarily to promote participation rights enjoyed by organized labor in some European countries, notably Germany. In order to materialize the spirit of the Labor Charter, the TLF drafted the 'Representative workers' participation Provisions in Government-owned Enterprises' in 1994 (*The Labour*, 1996). To unions, privatizing enterprises were listed as the first priority for the arena of the experimentation of representative workers' participation because organized labor in government-owned firms would have greater opportunities to succeed than in private firms.

Faced with this demand from organized labor, the government responded and explained that there had existed legal provisions for the establishment of industrial democracy, such as labor-management committees, employee benefits committees, and pension committees. If the government could strongly enforce the laws and urge many enterprises that had not complied with the laws to set up these committees, then

representative workers' participation could be advanced. Furthermore, the government attempted to promote the implementation of employee stock ownership as the model of representative workers' participation for privatizing government-owned firms (*Economic Daily News*, 22 March 1995: 3). These government's policies obviously fell short of the expectations of the unions for the institutionalizing of employee representation on the board. To accelerate the liberalization of Taiwan's telecommunications industry, the government wanted to pass the Telecommunications Act in late 1995. On 13 December, the Ministry of Transportation and the union negotiated the issues related to the restructuring of the Bureau of Telecommunications. After prolonged negotiations, both sides did not reach consensus and agreements (*Economic Daily News*, 14 December 1995: 14). The union insisted that the Bureau of Telecommunications should maintain its existent structure and its budget should not be audited by the Legislative Yuan, the peak law-making institute. Furthermore, the union demanded one-third employee representation on the board of directors. Obviously, the Ministry of Transportation did not accept the union's requests. The negotiations between the Ministry of Transportation and the union reached an impasse (*Commercial Times*, 14 December 1995: 3).

Because of the failure in consensus making, the government was concerned that this impasse might delay the smooth enactment of the Telecommunications Act in the recent session of the Legislative Yuan, ending on January 19th, 1996 (*Economic Daily News*, 14 December 1995: 14). If this were the case, the future of this legislative effort to the liberalizing of telecommunications markets would be much difficult and uncertain once the political environments changed after the next legislative election (*Commercial Times*, 14 December 1995: 3). The KMT decided to mobilize its party representatives in the Legislative Yuan and accelerated the passage of the Telecommunications Act in this session. On 27 December, the auditing of this bill was put on the agenda of the session in the Legislative Yuan. However, the legislative attempt of the KMT failed because the union launched a large-scale radical protest against the enactment of the Telecommunications Act and legislators sympathetic to the union boycotted the passage of the act. The KMT decided to ratify

forcibly the bill a week later. But the union threatened to launch another strikes against the rash ratification of the bill unilaterally facilitated by the KMT (*China Times Express*, 27 December 1995: 3). On 2 January 1996, the union announced three requests: (1) maintenance of the existent structure and governance of the enterprise; (2) implementation of representative workers' participation by employee board representation; and (3) parity negotiations with the Ministry of Transportation prior to the ratification of the bill (*China Times Express*, 2 January 1996: 4). Without getting satisfactory responses from the Ministry of Transportation, the union mobilized more than three thousand union members to protest against the KMT's unilateral actions, leading to the failure of the passage of the act once again on 3 January (*China Times Express*, 3 January 1996: 3). After the failure, the KMT, actively and tyrannically, utilized its dominant position in the Legislative Yuan and mobilized its legislative representatives to forcibly speed up the ratification of the bill, leading to the eventual passage of the Act in late January. The KMT's actions aroused vehement conflicts and fights between the KMT legislators and their counterparts associated with the Democratic Progressive Party (DPP) who participated in the auditing of the bill (*China Times*, 7 January 1996: 1). In addition, the union's demand for one-third employee board representation was completely eliminated from the bill (The Labour, 1996). This conflict exacerbated distrust between the unions in government-owned enterprises and the KMT. In order to improve its bargaining power, organized labor has attempted to establish a powerful federation of industrial unions in recent years. Many unions of government-owned and private enterprises joined the organization.

3.4 Collective bargaining

In most industrialized countries, collective bargaining is one form of workers' participation which provides workers with opportunities for decision-making and negotiation of terms governing employment relations (Hyman and Mason, 1995). In Germany, the centralized collective bargaining at the sectoral and regional levels serves as a regular interactive arena for organized labor and capital, which is conducive to productive

social dialogue. There is no direct bargaining between unions and employers at the workplace and plant levels because of the functioning of works councils on a statutory basis. At the industry-wide and regional levels, unions and the employers' associations engage in negotiations on a regular basis, which usually lead to collective agreements. Although the Collective Bargaining Law of 1952 grants legal enforcement of agreements only to union members, most agreements apply to all employees in the particular sector of the economy. Overall, collective bargaining agreements cover 80 to 90 percent of the workforce (Wever, 1995). A wide range of issues concerning employment can be the subject of collective bargaining. These include holiday pay, annual bonus, profit and capital sharing, job security, wage guarantees, unemployment compensation, sickness pay, and so forth (Fuerstenberg, 1993). Broader coverage of collective agreements benefits the majority of the German labor force. Furthermore, a wide range of issues included enhance the effectiveness of collective bargaining as a protection mechanism for workers' interests.

In contrast, industry-wide or nation-wide collective bargaining between peak organizations of both sides of industry in Taiwan has almost never existed since the second world war, though there were national associations representing interests of both sides. Due to the lack of norms for such social dialogue at the highest level and mutual trust, unions and employers are not accustomed to negotiations at this level currently. In 1997, the CFL and the peak organization of industry, the National Association of Industry (NAI), engaged in negotiations concerning the adjustments of base wage and cost of living. However, both sides did not reach agreements because of psychic problems. And this failure could exacerbate mutual distrust and impede the developments of cooperative labor relations at the societal level (Commercial Times, 12 August 1997: 3). Although federation-type unions have been organized, in fact, these unions have no substantial changes in terms of *de facto* power and influence (Pan, 2001, 2004). Pan (2001) describes collective bargaining in Taiwan in more detail.

3.5 Firm / establishment level

At the firm level, the major channel for social dialogue in Germany is provided by the system of employee board representation, stipulated by major co-determination laws enacted in the 1950s and 1970s, in firms with various sizes. There are three major co-determination laws governing German industrial relations at the firm level, including the 1951 Co-determination Act in the Iron, Coal and Steel Industry, the 1952 Works Constitution Act, and the 1976 Co-determination Act. Table 2 shows the extent of coverage of co-determination laws. These co-determination laws grant employee representatives certain kind of co-determination rights on supervisory board in particular industries. The coverage of workers ranges from 0.5 million in the iron, coal, and steel industries to 4 million workers in large companies with 2,000 or more employees.

Table 2 Extent of Coverage of German Co-determination Laws, 1992

Law	Form	Workers Covered	Industry Covered
1951 Co-determination Act	Parity representation on supervisory board	0.5 million	Iron, coal, and steel industries
1952 Works Constitution Act	one-third representation on supervisory board	0.6 million	companies with 500-2,000 employees
1976 Co-determination Act	49 percent representation on supervisory board	4.0 million	companies with 2,000 or more employees

Source: Adapted from Kristen S. Wever. 1995. *Negotiating Competitiveness: Employment Relations and Organizational Innovation in Germany and the United States*, Boston, Mass.: Harvard Business School Press, 39.

Though most co-determination laws have not endowed workers with decisive powers in decision making, in essence, it serves as a channel for information sharing between workers and management, which enhances the credibility of managerial decisions and is conducive to trust-building between both parties.

Collective bargaining is usually conducted at the industry-wide and regional levels between unions and employers. At the firm level, works councils engage in continuous negotiations and communications with management regarding the implementation of collective bargaining agreements which are usually loosely defined. More detailed agreements are reached by works councils and individual employers. Although there is a division of labor between the trade unions and works councils in Germany, unions usually play an important role in consulting with works councils (Wever, 1995). The revised 1972 Works Constitution Act gives German unions opportunities to establish close relations with works councils by sending their members to be elected as works councilors. These relations are mutual dependent and complementary. On the one hand, trade unions depend on the works councils to have collective bargaining agreements implemented at the workplace, to have their policies propagated, and so forth. On the other hand, works councils need union's support in training, expertise, and advice (Knudsen, 1995).

In contrast, legally mandated board representation is non-existent in Taiwan though organized labor attempted to institutionalize board representation in privatizing enterprises in recent years. Lacking such channel, productive social dialogue hardly takes place on the board. Distrust in management and oppositions to organizational restructuring were often the prevalent attitudes of organized labor in these privatizing enterprises. Though there are several cases of board representation taking place in Taiwan, employee representatives enjoy very limited rights compared to their German counterparts. Furthermore, the scope of their influence is much narrow. In Taiwan, collective bargaining between unions and employers has not performed the function as the German counterpart does, though the Collective Bargaining Law has existed since the early 1930s. There are large discrepancies between the union density and the

number of collective agreements signed. Table 3 shows that, from 1989 to 1996, the number of unions exceeds 3,000 per year over the period of 1989-97. The organization rates range from 38.06 percent to 49.53 percent during the same period. Nevertheless, the number of establishments signing collective agreements with unions is around 300, representing a tiny share of the population of firms in Taiwan. And the number of collective agreements even declined in 2002. It is ironic that high organization rates mean nothing to the function of Taiwan's unions as effective representatives for workers in collective bargaining.

Table 3 Number of Unions, Union Density and Collective Agreements in Taiwan Area: 1989-02

Period	Unions	Membership (in thousand)	Organization rate (%)	Collective agreement
end of 1989	3,315	2,419	38.06	346
end of 1990	3,524	2,756	43.34	289
end of 1991	3,654	2,941	47.99	302
end of 1992	3,657	3,058	48.06	306
end of 1993	3,689	3,172	49.53	292
end of 1994	3,706	3,277	48.86	296
end of 1995	3,704	3,135	46.58	287
end of 1996	3,700	3,048	44.60	289
end of 1997	3,714	2,952	42.20	297
end of 1998	3,732	2,921	41.09	300
end of 1999	3,804	2,927	39.98	301
end of 2000	3,836	2,868	38.46	301
end of 2001	3,945	2,879	39.40	309
third quarter of 2002	4,052	2,858	38.72	281

Sources: Adapted from *Monthly Bulletin of Labor Statistics, Taiwan Area, Republic of China*, January 1998 (Taipei: Council of Labor Affairs, Executive Yuan, ROC), 42, 49.

This low incidence of collective bargaining in Taiwan, to a great extent, reflects the widespread unwillingness on the part of employers to comply with the Collective Bargaining Law and the weaknesses of organized labor to enforce the law. Most collective agreements contain

simply the statements duplicating the provisions of the Fair Labor Standard Act (FLSA). Collective bargaining between labor and capital in Taiwan is nothing but an empty shell and hardly reflects the spirit of bargaining autonomy enjoyed by the German counterparts. Thus, the function of unions in Taiwan as the mechanism for interest representation of labor is highly doubtful.

3.6 Workplace level

The workplace-level participatory schemes can be viewed as the most important mechanism for the productive social dialogue due to its frequency of interactions and the immediateness of issues concerned by workers. In Germany, legally mandated works councils are unitary bodies representing all employees and are independent of both trade unions and employers. The 1972 Works Constitution Act stipulates that any firm with at least five employees is required to establish a works council. Though many small and medium-sized firms did not have works councils, approximately two-thirds of the German workforce in 1992, amounting to 9.3 million, were represented by works councils (Wever, 1995). Works councils usually meet with their employers at least once a month. The legally endowed rights enjoyed by works councils consist of co-determination, consultation, and information rights over social, personnel and financial issues. By and large, the German works council functions as a rather effective interest representation for workers and a cooperative partner with management at the workplace level though it entails costs for the enterprise.

In Taiwan, although several laws, stipulating the establishment of workplace committees for representation purposes, have also existed for quite a long time, their representative rights are usually defined in very narrow domains, which reduce their powers to be effective workers' participation schemes. In the case of labor-management committee mandated by the FLSA (Art. 83), only a small fraction of establishments in Taiwan has set up these committees. Government's statistics show that, among 186,095 establishments covered by the law in 1993, only 932 had

such committees, with an implementation rate of 0.5 percent. Table 4 gives the historical statistics and shows no increase in adoption from 1989 to 1997. The low incidence of the establishment of this committee reflects the ineffectiveness of its function as interest representation for labor in spite of the existence of the law since 1984. Although the number of labor-management committees, as of late 2001, has nearly three times that of 1993 due to the expansion of the coverage of the FLAS and negotiation of flexible working hours between management and workers, it still represents a tiny share of the population of enterprises in Taiwan. And labor unionists do not agree that the increase in the number of the committees has anything to do with the *de facto* power of labor. Besides, no punishment is applicable if employers do not comply with Article 83 of the FLSA. And this is one of the reasons that few enterprises in Taiwan set up labor-management committees.

Table 4 Number of Labor-Management Committees
in Taiwan Area: 1989-02

Period	Labor-Management Committee
end of 1989	835
end of 1990	806
end of 1991	851
end of 1992	914
end of 1993	932
end of 1994	970
end of 1995	980
end of 1996	994
end of 1997	1,013
end of 1998	1,052
end of 1999	1,296
end of 2000	1,943
end of 2001	2,617
third quarter of 2002	2,610

Source: Adapted from *Monthly Bulletin of Labor Statistics, Taiwan Area, Republic of China*, January 1998 (Taipei: Council of Labor Affairs, Executive Yuan, ROC), 50.

The low incidence of the establishment of this committee reflects the ineffectiveness of its function as interest representation for labor in spite of the existence of the law since 1984.

4. Institutional factors: a comparative perspective

The above comparisons highlight the importance of the productive social dialogue and the mechanisms to facilitate such dialogue in the developments of industrial democracy. We argue that for social dialogue to be productive and the institutionalization of workers' participation, some complementary institutional factors should co-exist to support such dialogue. These factors consist of corporatist ideology, labor strength, employers' tolerance to democratic participation, the facilitating role of the state, statutory safeguard for employee representation, effective participatory structure and labor education for industrial democracy. In Germany, bargained corporatism helps shape the values of social partners and influence their attitudes as well as behaviors in industrial relations, leading to cooperative relationships among actors at both workplace and societal levels. Furthermore, unitary and centralized union movements give organized labor the strength to influence decision making. Under the principle of 'social market economy,' capital and the state are more likely to recognize the legitimate status of organized labor as bargaining partner with equal footing, and more willing to integrate them into decision-making processes. Furthermore, German co-determination laws safeguard the interests of workers from management's arbitrary decisions. Tripartite structure of negotiations, industry-wide collective bargaining, and employee representation mechanisms at the firm and workplace levels provide organized labor sufficient opportunities to voice their demands. By contrast, there is short of such factors in Taiwan's industrial relations (Han and Chiu, 2000).

Social partners in Germany have much better conditions to facilitate productive social dialogue than their Taiwanese counterparts. The

differences in these institutional factors may explain the differences in the advancement of representative workers' participation between these two societies. To be specific, Germany was more successful in furthering representative workers' participation than Taiwan. We argue that this is, to a great extent, due to institutional complementarities which distinguishes the differences in the development of representative workers' participation between Germany and Taiwan. Institutions consist of formal rules (e.g., political and economic) and informal constraints (e.g., ideologies and norms of behavior). The success of any type of organizational changes (e.g., privatization) must take into account this large institutional framework (North, 1996). This principle applies to the developments of representative workers' participation in a society. These factors must co-exist to result in strong effects on the developments of representative workers' participation through productive social dialogue (Han and Chiu, 2000).

5. Conclusions

Facing internationalization of the economy and technological changes, many countries have been experiencing major industrial restructuring, which usually take such forms as liberalization of protected markets, increase in flexibility of human resources utilization, and so forth. These strategies and policies pursued by many governments and companies have oftentimes been in conflict with organized labor's concerns of protection for workers' interests in many countries. Nevertheless, the pursuit of international competitiveness and the demand for social justice are not inevitably mutually exclusive. On the contrary, they can juxtapose and lead to optimal consequences. The mechanism to achieve such goal is effective employee representation and participation characterized by high trust and reciprocity. Building such high-trust employee representation and participation needs continuous dialogue among social partners and learning to adjust their interests against other's concerns.

Consensus and compromises concerning the modes of employee representation reached through the interplay can sustain industrial

democracy. Further, high-level agreements on the forms of employee representation can provide a solid base for the realizing and operating of interest representation at both the firm and the workplace levels.

German post-war experiences of the developments of representative workers' participation provide good lessons to Taiwan to learn. To be sure, there are sharp differences in social norms and cultures between these two countries. And it may not be feasible to emulate the German co-determination system functioning well in the 1960s and 1970s due to the complementation of other environmental conditions. In particular, it is not wise for Taiwan to emulate the German system in a piecemeal manner without taking into consideration other necessary factors. One thing deserving learning is the way social partners interact to make rules that smooth labor relations and enhance productive efficiency as well. Looking into the twenty-first century, productive social dialogue may even play an important role in create a win-win situation.

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代議性勞工參與與社會對話： 德國與台灣之比較⁺

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摘 要

本文的目的在於比較德國與台灣在代議性勞工參與制度化過程的經驗，從比較中試圖闡明社會對話在產業民主發展上所扮演的積極性角色。本文的模式強調代議性勞工參與的成功發展需要仰賴建設性社會對話。所謂建設性社會對話係勞資政三方以一種建設性與互惠的方式進行互動以協商勞資關係的規則與程序的過程。要使這種對話產生，有利的制度環境必須存在來促進勞資政三者之間的互信與共識。德國戰後在代議性勞工參與的發展經驗較能驗證本文的模式。而台灣的案例似乎隱涵著一種相對的教材，說明著缺乏這種對話不利於勞資關係民主化的發展。

關鍵詞：勞工運動、產業民主、勞工參與、比較勞資關係

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