

Employee participation and involvement: the Italian case and trade union issues

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Summary

Among Europe's industrial relations systems, that of Italy stands out because of its high degree of voluntarism. Despite the existence of a specific – albeit never implemented – article in the 1948 Constitution, in the following decades employee participation has remained limited to the sphere of contractually established information and consultation rights, without in any way envisaging more formalized and incisive forms of co-determination at both workplace and board levels, prescribed by law only in very few cases. The aim of this article is to provide an overview of worker participation in Italy from the post-war period to the present day, outlining the links between the ideologies of the players involved, the prevailing production models and industrial relations practices, both formal and informal, that have been implemented at sectoral and company level. The article also provides an overview of best practices and the legislative measures in the pipeline, as well as outlining opportunities for and obstacles to real change in the near future.

Résumé

Parmi les systèmes de relations professionnelles en Europe, celui de l'Italie se distingue par son degré élevé de volontarisme. En dépit de l'existence d'un article spécifique - mais jamais mis en oeuvre - de la Constitution de 1948, au cours des décennies qui ont suivi, la participation des travailleurs est restée limitée au domaine des droits d'information et de consultation établies par voie contractuelle, sans jamais envisager des formes plus formalisées et plus approfondies de cogestion à la fois sur le lieu de travail et dans les conseils d'administration ou de surveillance, et qui n'était prescrite par la loi que dans des cas très rares. Le but de cet article est d'offrir un aperçu de la participation des travailleurs en Italie depuis l'après-guerre jusqu'à l'époque actuelle, en soulignant les liens entre les idéologies des acteurs impliqués et les modèles dominants en matière de production et de pratiques des relations professionnelles, sur le plan formel et informel, mis en place au niveau sectoriel et au niveau de l'entreprise. L'article offre également un aperçu des

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meilleures pratiques et des mesures législatives annoncées tout en soulignant les opportunités d'un changement réel dans un proche avenir et les obstacles à surmonter.

Zusammenfassung

Unter den europäischen Systemen der industriellen Arbeitsbeziehungen nimmt das italienische System aufgrund seines hohen Grades an Freiwilligkeit eine Sonderstellung ein. Trotz eines spezifischen Artikels in der Verfassung von 1948 (der allerdings nie umgesetzt wurde) blieb die Arbeitnehmerbeteiligung in den folgenden Jahrzehnten auf den Bereich vertraglich festgelegter Rechte auf Anhörung und Unterrichtung beschränkt, ohne dass in irgendeiner Weise formalisiertere und einschneidendere Formen der Mitbestimmung auf Betriebs- oder Vorstandsebene beabsichtigt worden wären – gesetzlich vorgeschrieben wurden sie ohnehin nur in einigen seltenen Fällen. Der vorliegende Artikel will eine Übersicht über die Arbeitnehmerbeteiligung in Italien ab der Nachkriegszeit bis zum heutigen Tage geben und dabei den Zusammenhang zwischen den Ideologien der beteiligten Akteure, den vorherrschenden Produktionsmodellen und den Praktiken der formellen und informellen industriellen Arbeitsbeziehungen darstellen, die auf Branchen- und Betriebsebene eingeführt wurden. Der Artikel bietet ebenfalls einen Überblick über bewährte Praktiken und geplante Gesetzesvorhaben und beschreibt Chancen für einen echten Wandel in naher Zukunft sowie die Hindernisse, die diesem Wandel entgegenstehen dürften.

Keywords

Employee participation, industrial democracy, industrial relations, trade unions, involvement, information, consultation, Italy

Introduction

The debate on employee participation in Italy has been at best erratic. Besides academic and trade union consideration, there has not been a single government that has not proposed and debated draft laws on the subject. However, they have all been dropped before any significant progress had been made. Although it is enshrined in the 1948 Constitution, the theme has remained limited to the sphere of contractually established information and consultation rights, without envisaging more formalized forms of co-determination at both workplace and board levels.

Having long been characterized by their confrontational stance, Italian industrial relations had come to be regarded, in the late 1990s, as an example of the 'revival of neo-corporatism' (Crouch, 1998; Baccaro, 2002; Regalia and Regini, 2004), through extensive concertation arrangements as a means to meet the Maastricht criteria, although formally missing some of its ideal-typical prerequisites (Schmitter and Lehmbruch, 1979). Things have since changed once again, under the tightening guidelines of the Euro Plus Pact and the notorious 'secret' letter sent by the ECB to the Italian government in August 2011. As in other countries, the importance of social pacts continues to fade and for the first time reforms of pensions, collective bargaining and the labour market have gone ahead based on unilateral government decisions, within the framework of the new European economic governance (Bordogna and Pedersini, 2015; Schulten and Müller, 2014).

Nevertheless, the erratic trend of the past has re-emerged and the issue of employee participation is again drawing the attention of stakeholders and policy-makers (Carrieri et al., 2015). Both trade unions and employers – albeit from different viewpoints – appear to be rethinking the strategic value of participation, overcoming old prejudices and distrust. This is due to several factors:

- the crisis of the national model of industrial relations, whose particular variety of voluntarism seems to have reached deadlock;
- trade unions are on the defensive, trying to get out of the corner into which they have been pushed by the new EU economic and institutional scenario;
- the prospects arising from comparison with the rest of Europe, in particular the German model of co-determination (Biasi, 2013);
- the new post-Fordist forms of work organization and their consequences in terms of direct involvement and participation;
- the impulse of European Union legislation, which has stimulated some normative realignment in the area of participatory rights;
- existing practices at company level, which may benefit from rationalization;
- a partial overcoming of the traditional reluctance of social partners with regard to stronger and more institutionalized forms of reciprocal responsibility.

The aim of the present article is to provide an overview of the trajectory of employee participation in Italy from the post-war period to the present day, outlining the links between the cultures and ideologies of industrial relations actors, the changes in the prevailing production model and industrial relations practices. The article presents an updated picture of collective bargaining practices and outcomes, legal issues, current developments and legislative measures in the pipeline, concluding with some remarks about the current situation, outlining opportunities for and obstacles to a real change in the near future.

Meanings and forms of employee participation

‘Employee participation’ (or ‘workers’ participation’) is a politically intricate, multifaceted and technically indeterminate category that has multiple meanings, including various concepts and aims that commonly refer to the sphere of *industrial democracy* (Arrigo and Casale, 2011; Poole, 1982; Blumberg, 1968). As Gollan and Xu note, ‘In the literature, terms such as participation, engagement, involvement or empowerment are sometimes used interchangeably, whereas the meanings and forms that the term *employee participation* can take vary considerably across disciplines’ (2015). Unlike *economic democracy*, which aims at macro-level redistribution, as well as cooperation or financial participation at micro level, *industrial democracy* entails workers’ involvement in decision-making that more directly concerns production strategies and working conditions (Macpherson, 1987). A significant theoretical contribution – dating back to the origins of this debate – has come from the British tradition of industrial relations (Clegg, 1960; Webb and Webb, 1897) and the German socio-economic culture of *Wirtschaftsdemokratie*, which developed during the Weimar years (Naphtali, Hilferding, Sinzheimer, Kahn-Freund). Industrial conflict, collective bargaining and legal enactments – before any form of participatory rights – were long the typical tools through which industrial democracy could be achieved in full autonomy and in the form of organized opposition within the capitalist enterprise.

Taking its cue from a prolonged interdisciplinary interest in this issue, participation can be regarded as a tool to emancipate work from being merely the object to being the subject of production, an instrument of *democracy at work* which allows workers to control work organization, while ensuring – in a win-win perspective – the sustainability of businesses, an apprenticeship on the way to socialist self-management, but also – more critically – a factor that enables the integration of the working class in the capitalist enterprise. This enhances particularistic and micro-corporative interests, prevents industrial conflict and overcomes the conflict between labour and capital. Once participation also acquires a political aspect, inasmuch as it cannot be dissociated

from issues of power, authority, legitimation and control (Pizzorno, 1966), any attempt to define it requires a historical contextualization. Employee participation appeared in policy programmes across the political spectrum, from socialist organizations to Fascist-related corporatism. It also features in the social doctrines of the Catholic Church, in the concept of the *social market economy* and in the latest human resources techniques. Starting from such diverse aims, prominent scholars proposed various typologies, distinguishing for instance between *subordinated participation*, *collaborative participation* and *conflicting participation* (Baglioni, 1995). Within the framework of such a classification, as we will see in what follows, the Italian experience could be categorized under the – oxymoronic – ‘conflicting participation’.

Employee participation can be understood in terms of its *behavioural sense*, as an approach to human resource management or in its *institutional sense*, which includes only formal mechanisms. From this point of view, the meaning of participation relies on its being a *normative technique impacting corporate decision-making processes*. If legal subordination is a matter of exercising direction and power, in the sense of the entrepreneur’s legitimate exercise of hierarchical authority over employees – legitimized by the assumption that the proprietor bears the business risk – then participatory rights are a limit or procedural conditioning of this hierarchical authority and subjection. Such authority will gradually be eroded by the rise of a ‘counter-power’ qualified by procedural rules. Employee participation usually consists of mechanisms or procedures that allow employees and their representatives to intervene in organizational decision-making within the enterprise and to impose joint decisions on company management, thereby asserting the workers’ point of view.

Involvement and participation may be direct or indirect (Lippert et al., 2014; Cremers, 2011; Sisson, 2000): we have (i) *direct involvement*, when it is implemented informally within the work organization (team work, quality circles and so on), providing enhanced autonomy without any mediation of union-like workers’ representatives; and (ii) *indirect involvement* when mediation takes the form of representative bodies (shop stewards, trade union delegates, works councils, board representation), formally acknowledged by the company. In terms of rights, it can consist of rights to information, consultation, co-determination and co-management, which represent different degrees of *involvement* through which, in EU terms, employees representatives ‘may exercise an influence on decisions to be taken within the company’. In accordance with this approach, *participation* is only board-level employee representation (BLER) (Gold et al., 2010; Vitols and Kluge, 2011; Fulton, 2009), intended to be ‘the influence of employees’ representatives in the affairs of a company by way of (1) the right to elect or appoint some of the members of the company’s supervisory or administrative organ’.¹ However, such a divide and vocabulary do not correspond to the common conceptualization traditionally used by scholars, for whom participation is a broad umbrella notion and objective, covering a diverse range and scale of workers’ rights and prerogatives among its concrete tools and achievements.

As for industrial relations, employee participation has traditionally been contrasted with collective bargaining, with the former understood as *association* (especially if assuming the form of BLER) and the latter as *exchange* (Treu, 1989). The political outcome of this set up has been to identify participation with *integration*, and bargaining with *autonomy*. This is because participation generally foresees involvement and, therefore, a degree of shared responsibility of workers in the company’s decision-making, while bargaining is grounded on a clearer distinction of interests with a greater reciprocal freedom of action of the parties concerned. This kind of contrast, in reality, has proved to be more theoretical than practical.

1 Council Directive 2001/86/EC, Article 2.

The extent of a system of employee participation can be measured on the basis of at least three principal aspects (Leonardi, 2013): (i) *decision classes* (strategic, managerial, executive) on which influence is exercised; (ii) *decisional level* (group, company, productive unit) to which normally corresponds a specific class of decisions; and (iii) *degree of formalization* (*ex lege*; *ex contractu*), with which the rights in question become, *in due time* (problem setting vs problem solving) binding and enforceable.

From an ideal-typical point of view, we have a *strong* model of employee participation when co-determination rights in the strategic decision class are formalized by law either at board or workplace level. This is classically the case with regard to German *Mitbestimmung* (Silva, 2013; Müller-Jentsch, 2008),² especially in its parity-based variation of the coal and steel industry law (1951). On the other hand, we would have a *weak* model if employee participation were barely formalized, focusing only on executive decision-making, with little impact on company strategy. On the basis of this classification, the Italian model can be considered relatively weak, mainly due to the absence of any form whatsoever of board-level employee representation (Cremers et al., 2013; Vitols and Kluge, 2011; Rehfeldt et al., 2011).

However, as I will suggest in the concluding paragraphs, the changes induced by the combination of globalization and new productive paradigms tend to undermine fatally – not only in Italy – the capacity of trade unions really to influence corporate strategies. All systems, including the more consolidated ones, are subject to the pressures of global markets, employers and lawmakers. On the other hand, the new models of work organization could potentially be used to subvert managerial aims, paving the way for more effective influence, at least on shop-floor working conditions, if union action is able to combine conflict, bargaining and participation, without relying exclusively – and ideologically – on only one instrument or another.

Cultures and identities of the Italian social partners: a post-war overview

The issue of employee participation in Italy goes back a long way (Leonardi, 2013; Olivelli, 2005; Baglioni, 1995). Any attempt to sketch the evolution of employee participation in Italy needs to take account not only of the different actors' cultures and ideologies, but also the economic, social and political development of a country of marked divisions and contrasts. A starting point might be the Constitution of 1948. Unusually, it includes a full article dedicated to workers' right '*to collaborate in the management of enterprises, in the ways and within the limits established by law*' (Article 46), while – in more general terms – it considers it a duty of the Republic '*to remove the economic and social obstacles that, by limiting the freedom and equality of citizens, prevent the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country*' (Article 3.2).

Article 46 could have been a pillar of a system of economic and industrial democracy, but that never materialized. The causes are various and complex (Pedrazzoli, 2005; Ghezzi, 1980; D'Antona, 1980), being in the first instance both semantic and political: the final choice of, for example, 'collaborate' rather than 'participate' – as originally proposed – and 'in harmony with the needs of production', sounded too close to the Fascist corporatist ideology of idyllic labour–

2 But co-determination is by no means confined to Germany, as at least 12 of the 28 states in the EU and EEA have some kind of mandatory employee representation in the company's management and supervisory organs (Kluge, 2011).

capital relations.³ Even the public registration of trade unions as a precondition for signing *erga omnes* binding industry-wide collective agreements, or a legal regulation governing the right to strike, as prescribed by two other articles of the Constitution (39 and 40), have long been viewed and rejected as a legacy of the former regime and its juridical culture.

The most important but nevertheless brief experience of employee participation at workplace level, the *Consigli di gestione* (Joint management councils), developed during the factory occupations in the almost insurrectional climate at the end of the Second World War, was rapidly reabsorbed as soon as the traditional power relations within firms were restored within no more than five years (Amari, 2014; Leonardi, 1997).

The employers were determined to reaffirm their exclusive managerial prerogatives in the teeth of any prospect of employee participation, even in its weakest form. The Italian variety of Taylorism/Fordism, which at that time was in full flight, did not contemplate any real form of power sharing in business governance and work organization. Proposals from the most open of the unions on these issues, CISL – the newly established organization close to the ruling Christian Democrats – were cold-shouldered by the employers' associations. Similarly ignored were the neo-capitalist ideas of individual 'enlightened' entrepreneurs, such as Adriano Olivetti and Piero Bassetti, who were more inclined to a participatory style than their colleagues and were strictly censored and even threatened with expulsion by their association. In the years of the economic boom, during the 1950s, capital and management had re-gained full control of their companies, imposing unilateral and anti-union practices in the workplace (Craveri, 1977; Accornero, 1975).

In such a scenario, it was easy for the labour movement and its strongest component, the communist-driven CGIL, to see confirmed their analysis of neo-capitalism and its refusal of any kind of commitment that could compromise freedom of industrial action. Despite the existence of minority options – CISL and UIL, the latter supporting the German model of BLER – a confrontational approach long prevailed, under the leadership of CGIL. In the culture of the CGIL, industrial and economic democracy was related to the possibility of achieving 'structural reforms' through the political intervention of a left-leaning coalition of social forces and parties. The idea of 'progressive democracy', developed by the Italian Communist Party, prevailed; its core inspiration was not Article 46 but Article 3.2 of the Constitution (legal enactment to remove any hurdle impeding substantial equality), through public intervention in the economy (Article 41) and ownership (Articles 42 and 43). Working conditions, during that period, were pretty much neglected by the communist activists, who had embraced Gramsci's doctrine on – and fascination with – the rationalizing power of Fordism. The socialists, though sharing the same belief in central planning and nationalization, seemed to devote more attention to shop-floor democracy.

In the 1960s, unorthodox communists and socialists (Tronti, Panzieri and their influential *Quaderni Rossi*⁴) revisited Gramsci's thesis on workers' control, which was also a feature of 1920s *Linkskommunismus* (Korsch, Pannekoek). They worked out the theory of so-called *Operismo* ('workerism'), which is probably the most original Italian contribution to international neo-Marxism in those years. According to it, the factory represents a vehicle for the self-organization of the working class and the development of new forms of militancy. It is a

3 In particular, with the *Charter of Verona* of 1944, the dying regime, surviving with Nazi support in the northern and industrial regions of Italy, tried to gain support within the working class, which had repeatedly taken strike action since March 1943. Workers' participation was the last and most extreme attempt by Mussolini's Republic of Salò to overcome rising blue-collar militancy against the system and military occupation.

4 'Red Notebooks'.

laboratory for a new subjectivity exercising hegemony over the production system, until society as a whole is won over. In the social climate of the 'hot autumn' in 1969, new forms of works council were established, the Factory Councils. This was a model of semi-direct democracy in which union delegates were elected, with a revocable mandate, by their work unit, no matter whether it was unionized or not and with full bargaining power on all key deliberations. This model and approach to union democracy is still alive in the culture of many CGIL officers and shop stewards.

During that period scholars close to the labour movement played an important role in importing ideas from abroad. Surprisingly, it was the Anglo-Saxon, not the German or Nordic model that exerted the strongest influence. Labour lawyers such as socialists Gino Giugni and Federico Mancini further pursued the ideas developed by Otto Kahn-Freund and Americans Perlman and Commons (School of Wisconsin) on the role and value of collective autonomy and self-regulation in industrial relations (Giugni, 1977). Meanwhile, young Catholics and leftist intellectuals linked to the CISL, inspired by the pluralist theory of the so-called Oxford School (Clegg et al., 1980) provided new theoretical tools that substantially transformed their initially moderate union into a more rank-and-file oriented one. They also opened a debate on self-management (Baglioni et al., 1977), while the Confederation's printing house (Edizioni Lavoro) translated and published the best of the international literature on industrial relations. Thanks to the dissemination of collective cultures and plural identities among communists, socialists and Catholics (Cella, 2008), the Italian labour movement, on the wave of a mounting cycle of class struggle (Pizzorno et al., 1978) experienced one of the longest periods of union growth and power in Western societies.

As in Webb's seminal *Industrial Democracy*, as already mentioned, strikes, collective bargaining and political reforms are considered the most effective tools for achieving industrial democracy and, more significantly, changing society. The 1970 Workers' Statute was the major outcome of this development: inspired by Roosevelt's Wagner Act – via Labour Minister Gino Giugni – it was a case of auxiliary legislation, aimed at stabilizing union liberties and power on the shop floor.

Because of such bottom-up pressure, CGIL, CISL and UIL finally combined to form a unified federation that lasted until 1984. During the so-called 'decade of the unions' (1969–1979) the effective voice of Italian workers was proved to be no less strong than in countries with more institutionalized models of co-determination. Proud and self-confident in this conviction, two generations of shop stewards and union officials believed they had nothing to learn from elsewhere. Few found much to offer in the German model or were tempted to exchange an almost unlimited power to strike for sitting on some supervisory board which obfuscated their autonomy. The *voluntarism* of Italian industrial relations, along with other enduring traits, can be explained by such a mixture of cultures and ideologies. Finally, in the late 1970s national industry-wide collective agreements began to include workers' rights to information and consultation on an increasing range of issues in their opening chapters, either at sectoral or company level.

Many things in Italy would change in the 1980s, as they did in the rest of the world. The balance of power started to shift and Italian scholars and unionists started to look with growing interest at the very neo-corporatism that had long been dismissed (Vardaro, 1988), just when neo-corporatism was slipping into a crisis in its Nordic birthplaces and bastions. Implementation is based on the notion of 'political exchange' (Pizzorno, 1980; Rusconi, 1984). Also workers, as a survey at Fiat indicated, now considered the German model to be the most appealing foreign option. Later on, the milestone framework agreement of 23 July 1993, by establishing the basic rules for collective bargaining and workplace representation, endorsed the value of employee participation, elevating it as a key element in company bargaining, especially in the areas of production-related wage and work organization. 'From conflict to participation' was the mantra of this new phase.

Public companies, for decades a pillar of the industrial system, also played a key role in the evolution of the Italian system of industrial relations. From the late 1950s (and until the late 1990s), they had their own employers' association, outside the Confindustria umbrella. In the early 1960s, in open contrast to private employers, public managers paved the way for company agreements and to a two-tier *articulated bargaining* system. In the mid-1980s – when the private employers, individually (FIAT) and collectively organized (Federmeccanica, the largest metalworkers employers association), sought to sideline the twice defeated unions (at Fiat in 1980 and in a referendum on the 'sliding wage scale' in 1985⁵) once and for all, the big public holdings (IRI and ENI) opted for a different approach. With ad hoc '*Protocolli*', a robust system of information and consultation was established through joint committees, at company and group level, with detailed procedures for preventing unilateral action and cooling down conflicts.

It is worth highlighting that traditionally – due to the specific nature of public ownership and production cycles (unregulated work stoppages were impossible for safety reasons), as well as the larger average size of the companies concerned – both social partners in the energy and large chemical industries practised more cooperative industrial relations than, for instance, the metal-working sector, in which they have always been more antagonistic.

In this scenario of different cultures and objectives, de facto cross-vetoing occurred, with regard to method (CISL's scepticism with regard to the law) and content (CGIL's original reluctance for board-level employee representation and, continuing, financial participation) and also both (employers' associations). This impeded the development of any formal system of employee participation.

Echoes of these developments have proved persistent. CISL has probably remained more faithful to its original inspiration (Baglioni, 2011): an identity-dictated choice for *participation* in all possible forms, servicing and bilateralism (see below), and decentralized bargaining, reluctant to accept any interference by the law. CGIL has revised some of its original views on the subject (Leonardi, 2013). Starting from the 1980s, the country's largest confederation, through a lively internal debate, has gradually accepted *co-determination*, including the long rejected BLER. Compared with CISL (and UIL), CGIL still practises a more rank-and-file kind of unionism, with more centrally coordinated collective bargaining, and marshals most social protest. Its metal sector federation (FIOM), with its combative leader (Landini), now aims at guiding a 'social coalition', open to other movements, against neoliberal policies, whereas the rest of the confederation remains fairly sceptical. Nevertheless, even CGIL has not given up on developing pragmatic company-level bargaining and bilateral funds for occupational welfare.

Influence of EU legislation

EU law has played a very important role in the public discourse and legal changes concerning employees' information and participation (Alaimo, 2014; Zoppoli, 2006). A first generation of EU-driven laws in Italy dates back to the early 1990s, although the EC directives were passed in the mid-1970s. They concerned collective dismissals, transfer of undertakings, and health and safety. A second generation of EU-driven laws followed, related to the transposition of the Directives on European Work Councils, the European Company Statute and information and

5 In the same years, at least two other union 'heroic defeats' (Golden, 1997) were symbolically consumed: the air-traffic controllers in the US and the coalminers in Britain.

consultation. In three cases out of five, enactment came after the social partners had agreed a peak-level joint statement.

Directive 2002/14/EC set common statutory standards for the national level and to some extent represents a legislative enactment of Article 27 of the EU Charter of Fundamental Rights. To this end, Italy's most representative employers' associations and trade union confederations signed a joint position in November 2006. Because collective agreements in Italy lack an *erga omnes* effect, a transposition of the Directive into Italian law was possible only after an implementation act, namely Legislative Decree No. 25/2007, which was passed two years after the deadline for transposition. The contents of the information and consultation rights and duties foreseen by Italian law are substantially in line with those contained in the Directive (Guarriello, 2013; Leonardi, 2010). The Directive leaves to the Member States the decision whether to apply the rules to undertakings employing at least 50 employees or at least 20 employees. Italian social partners and lawmakers opted for the more restrictive threshold of 50. According to trade unionists and scholars, the Italian reception of the EU Directive has not given rise to any innovative feature or added value. The perception is that most of the 'new' rights were already recognized and rooted in collective agreements at all levels⁶. The two weakest points concern scope and sanctions. First, the high threshold (50 instead of 20) excludes too many workers: approximately two-thirds of Italian employees. Secondly, the very limited administrative sanctions for enterprises do not represent an adequate deterrent. If an employer violates workers' rights to be properly informed and consulted, the 2007 Decree provides only for administrative sanctions, with almost ridiculous fines, ranging from €3000 to a maximum of €18,000 for each instance of non-compliance.

The impact of the Italian legislation on the European Company⁷ (Corapi and Pernazza, 2011; Cattero, 2011), Legislative Decree No. 188 of 19 August 2005, has been fairly disappointing. It represented an opportunity to develop meaningful forms of board-level employee representation, but, in practice, no such effect has been achieved (Gottardi, 2014; Guarriello, 2013).⁸ Only some public institutions for social protection and health and safety at work (INPS, INAIL) have a dual system of governance, with a degree of workers' participation at supervisory board level.⁹

Some juridical profiles

Employee involvement is at its most intense during the joint examination phase, when social partners discuss available information and, in compliance with the Civil Code clauses on goodwill and fairness, may reach an agreement or sign an understanding, without in any way establishing a formal contractual commitment. The outcomes of consultation are not binding on employers. Once joint examination has taken its course, the parties are no longer bound by the non-unilateral obligation and thus are free to take the actions they deem necessary.

The body responsible for information and consultation rights in workplaces with over 15 employees is the *rappresentanza sindacale unitaria (RSU)* or unitary workplace union structure.

6 Findings on the EU-supported projects INFORMIA and INFPREVENTA, coordinated by the Bulgarian ISTUR and the IRES/ABT partnership (www.infpreventa.org).

7 Its two pillars are the Statute for a European Company (SE), Council Regulation 2157/2001/EC and, on the involvement of employees, Council Directive 86/2001/EC.

8 This does not seem to be only an Italian problem, as Conchon and Waddington have shown: 'Despite the acknowledgement, very little interest has been shown for this specific workers' right' (2011: 93).

9 Unlike Germany, in Italy corporate law provides for a monistic governance system.

Below that threshold there is no right or obligation to elect union representatives. Decisions within RSUs are taken by majority. To be eligible, organizations have to collect signatures from at least 5 per cent of the workers entitled to vote. CGIL, CISL and UIL lists receive the most votes. Once set up, the RSU – a pluralist single channel proportionally representing different organizations – has both participatory and bargaining rights.

Health and safety representatives (RLS) and their rights are provided for by law, after the transposition of the EU directives. The RLS have the legal right to access workplaces and to receive all documentation concerning risk assessment and related prevention measures, with the possibility of calling in the authorities if the prevention/protection measures are deemed unsuitable. Consultation must occur both preventively for risk assessment and successively to verify the adequacy and effectiveness of prevention and protection measures.

The overall percentage of employees covered by some workplace representation is uncertain and accurate data are not available because registration is not mandatory. However, taking all the different kinds of representation together, including public sector and health and safety representatives, in establishments with more than 15 employees, coverage is probably fairly high. Excluding the RLS and considering only RSU, a plausible estimate could be around 35 per cent of private workplaces with over 15 employees, which – notoriously – are a minority. Alongside the RSU and RLS, another body that is becoming increasingly important is the joint committee. Based on collective bargaining, joint committees are composed mainly of members of the RSU and their aim is to encourage non-confrontational exchange to deal with ad hoc single issues.

Importantly, employers who impede or hinder the exercise of union rights are liable to prosecution for anti-union activities (Article 28, Workers' Statute). If found guilty by the court, the employer will be required immediately to permit the collective rights that they had tried to quash. This is a key norm that for many years has allowed trade unions to seek enforcement of collective rights that would otherwise exist only on paper.

Timeliness is absolutely crucial for the effective exercise of information and consultation rights. Advanced information foresees the disclosure of pre-emptive information. The main question is which indicators show *when* a business project is about to be implemented. There is no formal element that precisely defines the moment of a corporate change and it can be very difficult for a company to involve workers' representatives in anticipation of a change in good time. Local managers of multinationals, in particular, can themselves be excluded from short-term planning, because changes are more and more dictated by 'the market' or taken by the parent company abroad. But if a company gives up making longer-term plans, how can we expect trade unions to be in a position to co-determine such decisions? This is one of the biggest challenges that the new global financial capitalism poses to all participatory systems, even those that are traditionally considered stronger than the Italian one.

Collective bargaining and participatory rights today

Italian collective bargaining is based on a two-tier system with industry-level collective labour agreements and decentralized collective agreements at company or territorial level, where companies are below the relevant size threshold. Industry-level bargaining is the core of the system. Nowadays, information and consultation rights are the cornerstone of all collective agreements, both at national and company level. Through roughly 400 national sectoral agreements (but the latest figures tell us of a proliferation in the last seven years, up to a striking 700), all wage-earners are covered by collective agreements. All texts start with a sort of political understanding, where the signatory parties declare the common values and objectives they aim to achieve, with

particular emphasis on the value of a participatory approach and the common will to seek agreed solutions to problems, especially competitiveness in global markets. All agreements foresee joint committees, monitoring and procedures for a proactive exchange of views on a wide range of issues: the economic situation and expected trends, employment, competitiveness, vocational training and equal opportunities.

In sectors with a very high proportion of SMEs, seasonal or fragmented work, where employment has traditionally been unstable and trade unions are weak at the workplace level (construction, crafts, agriculture, retail, tourism, temporary agency work), unions and employers have also established bipartite joint bodies and funds, an original form of collectively agreed welfare provision in the form of integrative pensions and health insurance, vocational training, temporary lay-offs and income support, and health and safety. This is so-called *bilateralism*, which has received strong support from recent legislation and, importantly, can now be considered the most structured form of participation achieved in Italy in the past 20 years (Leonardi, 2014).

The second level of collective bargaining is not compulsory and depends on the presence of RSU and on the power relations in each workplace. Despite the social partners' intentions and public policy incentives, such as the de-taxation of productivity-related wages, the spread of decentralized bargaining remains far below expectations. According to some studies (Banca d'Italia, 2013), it covers roughly 55 per cent of the workforce and 20 per cent of enterprises, mainly unionized ones (26 per cent) with over 20 employees. In fact, the proportion of companies without workers' representatives with a company agreement is a mere 2.8 per cent. Most of these agreements are signed in the north and centre of Italy.

According to a survey on a sample of 2402 agreements signed between 2009 and 2012, conducted by CISL's national observatory (OCSEL) on decentralized collective bargaining (2013), the issue of *trade union prerogatives at the workplace* appears in 20 per cent of texts, in third place behind wages and crisis management. Of these prerogatives, 87 per cent consist of *information and consultation rights*. They concern mainly the economic situation of the enterprise (85 per cent), vocational training (72 per cent), employment (68 per cent) and working hours (64 per cent). *Participation* as a further specific item is hardly mentioned: only 5 per cent of texts refer to the institution of ad hoc joint committees on company strategic choices. Another, already mentioned recent survey on sectoral and company-level collective bargaining produced similar results (ADAPT, 2015): 43 per cent of a sample of roughly 800 texts concern industrial relations machinery, 35 per cent improvements in information and consultation and 14 per cent the establishment of joint committees.

So-called 'best practices' have been identified by the media and academics in case studies of various sectors (Carrieri et al., 2015). They basically consist, again, of a mixture of broad information and consultation rights, joint committees and occupational welfare schemes. Although partially privatized, Eni and Enel – two of Italy's few last truly global players – have confirmed their advanced protocols on industrial relations. Other examples were Electrolux – at least until 2014, when the Swedish company threatened to close down an Italian plant if its unitary labour costs were not aligned with the levels of its Polish factories – and Finmeccanica, both in the metal-working sector (Famiglietti, 2015). Further examples are Gucci, Tod's and Luxottica in lifestyle and clothing, the cooperative Granarolo in the food and beverage industry and GD and IMA in the packaging industry in Emilia Romagna (IRES ER, 2011).

It is worth recalling the role played by some German multinationals in exporting aspects of their co-determination model, at workplace level, to some of their subsidiaries in Italy (Telljohann, 2015). Examples are Lamborghini and Ducati, historical brands in the engineering sector, now under the control of Volkswagen. Implementing the transnational company agreements signed

by the German automotive giant, namely the *Labour Relations Charter* signed in 2009 (ABT, 2015), the two companies have adopted a system of workers' involvement in which the two traditions and models – the Italian and the German – are partially merged through a mixture of information and consultation prerogatives and ad hoc joint committees.

The contents and quality of the information and consultation are fairly well appreciated by trade unionists, although they usually complain about a lack of timeliness and the often unsatisfactory outcomes of such procedures. Compared with other European systems, Italian workers' participation appears still to be fairly weak. According to an international study (Vitols, 2010), Italy is still at the bottom of the list in the EU, concentrating exclusively on collective bargaining, limited to information and consultation procedures, while stronger forms of involvement are almost absent.

The challenge of direct involvement and participation

In post-Fordist economies employee participation is commonly considered to be a key factor in enterprise innovation and competitiveness, as it can help to enhance the anticipation of change and increase levels of employee empowerment and satisfaction (Knudsen et al., 2011; Cremers, 2011). Concepts such as involvement and work autonomy are often subsumed under a single construct of *direct participation* (Lopes et al., 2015). Inspired by Japanese models of work organization, this includes concepts such as *lean production*, *World Class Manufacturing* and *high performance work practices* (Schonberger, 1996; Storey and Harrison, 1999).

Unlike in the past, workers are not considered merely a constraint but as a problem-solving resource to be duly activated through a range of HRM techniques, including better working conditions and high-trust industrial relations. The aim is to widen informality and decision-making power in the execution of tasks, long considered by middle management as dysfunctions to be identified and removed. Impetus has frequently originated from company management, so that significant items in the traditional trade union platform of demands are today being taken up and integrated in new corporate strategies. Furthermore, sometimes replacing traditional forms of collective bargaining and involvement, managers seem to be opting more and more for *direct participation*, without and/or beyond the classic 'indirect' dialogue with workers' representatives.

These epochal changes in managerial culture and practices have found a receptive terrain in Italian companies (Pero and Ponzellini, 2015). Surveys over the past couple of decades have revealed the diffusion of these new approaches. This applies, for instance, to some highly innovative firms in the bio-mechanical or packaging industrial districts of Emilia Romagna, where trade unions have usually been involved in the search for new shared solutions. More famous – and controversial – is the case of FIAT, traditionally on the frontline in all phases of historical transformation in national industrial relations. A recent and broad survey commissioned by the CISL metalworkers' federation (FIM-CISL, 2014) was conducted by the University of Milan among the workers in 24 FIAT establishments. The goal was to investigate the impact of *World Class Manufacturing* on working conditions and workers' perceptions. Workers expressed their appreciation of progress related to the work environment, their involvement through team work, requests for suggestions, job rotation and product quality. The critical factors remain (i) more intensive working times and pace of work (it is 'less porous' and there are no opportunities for workers to divert their attention from the job in hand); (ii) low satisfaction with performance-related bonuses; (iii) limited evidence of a real use of employees' suggestions by the management; and (iv) limited rotation. Other empirical research on the same target group, closer to FIOM-CGIL (Tuccino, 2011), has revealed that work intensity has now been greatly increased and only partially compensated by some ergonomic improvements. At the same time, industrial relations have become very bitter, with a clear

intention on the part of the management to eject the representative and combative FIOM-CGIL from all factories, similar to what Toyota did in the early 1950s (Coriat, 1992) in order to achieve its managerial utopia of a zero-conflict company.

Generally speaking, such a radical change of paradigm offers the employees unprecedented opportunities to increase their skills, voice and motivation to a level unknown previously. CISL is the most convinced of the challenges of such a new horizon (Baglioni, 2011) whereas, from a different perspective, a very influential trade union leader, CGIL's Bruno Trentin (1992), used to insist on them as the new potential frontier for a modern unionism and *liberation at work*.

Nevertheless, dangers and criticisms are no less evident (Gorz, 1988; Boltanski and Chiappello, 1999). Managers' control over working time – the traditional target of the 'scientific' organization of work – although more indirect and comfortable in terms of work ergonomics and environment, has never been so pervasive, through the elimination of any 'porosity' and *non-value added activities*. As the European Working Conditions Surveys have shown (Eurofound, 2012), higher employee autonomy and involvement at work often go hand in hand with a more stressful intensification of tasks and psycho-physical overstrain. Moreover, they achieve a form of disintermediation in interest representation, in which the role of the unions and their shop-floor representatives is fatally marginalized. In August 2015 the media emphasized the successful request by Electrolux management to workers as to whether some of them were available to work on the national mid-summer holiday on 15 August, after the unions firmly rejected this. Yet, elsewhere, some welfare benefits are unilaterally granted, so to increase workers' loyalty and motivation, often at the expense of collective representation.

If industrial democracy was initially conceived with the aim of extending workers' citizenship within the factory gates, now this appears at best as an *ex post* justification. It is not about creating a more 'democratic' enterprise, but merely about making it more efficient and profitable. The constitutional asymmetry between capital and labour has not been reduced, but only better covered up. Corporate strategic centres and deliberations, in the era of shareholder-value capitalism, financialization and multinational companies, have never been so obscure and distant from the workers and their unions, making it more difficult for them to exert any effective influence over them. Through the functional differentiation of its internal organization, business power tends to evade the traditional venues of collective bargaining (Harvey, 2013) by: (i) scaling up, by creating a screen of legal personality, into a transnational entity of Chinese boxes, in which the company's boundaries are completely blurred; and/or (ii) scaling down, by outsourcing and decentring its executive decision-making, and using more and more flexible workers. From a managerial point of view, the meaning (and the rhetoric) of *participation* coincides with that of *involvement* (Hyman and Mason, 1995). In the Italian industrial relations vocabulary we have passed from the original *controllo operaio* in the 1950–1970s, to *codeterminazione* in the 1980–1990s, then to *partecipazione*, and finally to *coinvolgimento* (involvement). This semantic and symptomatic political shift – which is observable in Italy like everywhere else – from democratic union-driven aims to more managerially driven HRM approaches (Gollan and Xu, 2015) is a clear sign of the ideological hegemony (Edwards, 2006) of the neoliberal consensus. A case of the lost battle of ideas and words, to use the Hyman categories.

As production and work organization continue to evolve in this direction, industrial relations systems cannot remain the same (Gumbrell-McCormick and Hyman, 2013). The new attention paid to employee participation goes hand in hand with the ongoing pressure towards a definitive decentralization of collective bargaining. Direct participation and company-level bargaining, in the perspective of 'competitive corporatism', are inevitably antipathetic to multi-employer agreements and within-country solidarity. The open attack coming from the new European governance

on the multi-employer bargaining system in more and more countries (Schulten and Müller, 2014; Marginson, 2015) – Italy included – is a clear effect of this new scenario. Another aspect of it is the obsession with preventing industrial conflict and unrest, despite its sharp decline. See the cases of Britain and Spain. The separate and controversial agreements signed at FIAT in 2009–2010,¹⁰ but also the last three inter-sectoral framework agreements on union representativeness and collective bargaining (Confindustria, 2011–2014), with their stricter cool-down procedures, are clearly inspired by such management concerns and purposes. We have to bear in mind that, historically, strong limitations on strike action have been the price paid by the Nordic labour movement for its co-determination rights. The big question today is whether neo-corporatist *political exchange* is still (i) feasible and (ii) beneficial.

However, labour as a crucial resource can be an element of unprecedented vulnerability for companies. In the era of just-in-time and zero-stocks, a shop-floor stoppage could result in serious damage, which represents a major opportunity to restore collective bargaining. If strategic decision-making appears unreachable today, as never before, new opportunities are opening in the no less crucial area of the quality of work organization and conditions at shop-floor level.

Conclusions

In the past six years the Italian industrial relations system has experienced a prolonged phase of transition, which does not seem to have reached its end (Carrieri and Treu, 2013). The numerous events that have affected it in recent times are rapidly and profoundly changing this particular national model. Collective bargaining has repeatedly been the subject of ‘reform’, undermined either from the top, by European interventionism, or from the bottom, as in the case of Fiat. This offers employers a regressive exit strategy from a model that we could otherwise define as ‘organized decentralization’ (Traxler, 1995).

Union density and collective bargaining coverage numerically resist better than in the EU average (Visser, 2015)¹¹. Nevertheless, compared with other countries, the difficulties of Italian trade unionism are more *qualitative* than *quantitative* (Leonardi and Sanna, 2015). For example:

- the gap between the level of general trade union recognition and their power resources and the modest outcomes in terms of wages, employment rates, human capital and welfare provisions, is significant;
- the marginalization experienced by unions because of the new European and state interventionism in the main social issues, collective bargaining included, has further weakened union influence;
- the crisis of traditional voluntarism in the field of industrial relations, with subsequent legal uncertainty and conflicts, has led to divisions between the main confederations and has opened up strategic divides among unions concerning their role in the new century.

As for workers’ participation, we can summarize our argument as follows:

10 FIOM-CGIL refused to sign and hardly contested these agreements.

11 Collective bargaining coverage is over 80 per cent, while union density is 35 per cent. With roughly 12 million union members in 2014, Italy is the most ‘unionized country’ in the EU. These figures include more pensioner-members than elsewhere, however, accounting for almost half of all members in two of the three main confederations, but they exclude the members of unions other than the three main confederations.

- an historical and ideologically-based reluctance of social partners to establish forms of strong involvement and participation by law, with the assumption of reciprocal responsibilities, in terms of limiting management prerogatives, on one side, and a stricter regulation of union autonomy, on the other;
- the lack of any widespread form of board-level employee representation and other significant forms of financial participation, as found in other countries;
- the key role played by collective bargaining, the true pillar of the whole Italian industrial relations system;
- national legislation that over the years has slowly implemented EU legislation on information and consultation, on specific issues or at a more general level;
- the lack of a uniform, reliable and effective picture of participatory practices, with important divides across sectors, branches and companies of different sizes;
- the increasing role played by new forms of work organization, with a strong managerial emphasis on the issue of workers' involvement, through different forms of informal and team work;
- the key mediation of the government in solving occupational crises in many large companies (Electrolux, Ilva, Eni, Finmeccanica, Whirlpool);
- a widespread perception of industrial relations as unsatisfactory, with employers demanding more decentralization and flexibility and the unions demanding more enforceable and reliable articulation of levels, tools and decision-making.

A higher degree of formalization, by means of which workers' participation would be made certain, regular, pre-emptive and mandatory, has been suggested by a number of scholars and trade unionists. These favour a holistic approach to representation at workplace level, the collective bargaining system and workers' participation in all its potential forms.

In recent governments, MPs of different political orientations have aimed to introduce comprehensive legislation that covers all the different aspects of participation: information and consultation, board-level representation and financial participation (Caragnano, 2011). A new bill is now under discussion (1051/2015) on an initiative from two MPs, former Berlusconi Labour Minister Sacconi and neoliberal labour lawyer Ichino. In 10 articles they propose to establish framework legislation on all possible forms of workers' participation. Like most previous bills, this one is based entirely on the 'free will' of the social partners, at the decentralized level, to negotiate and establish one or more forms of industrial and economic democracy. From this viewpoint, we predict that it will not have a serious impact on the current situation. The traditional weak enforceability and effectiveness of the Italian voluntary approach to participation will probably remain unchanged. Sanctions for avoidance or violations are not mentioned and there is no reason to believe that companies will willingly establish supervisory boards with workers' participation, when these are not mandatory. Only financial participation might receive a real impulse, due to companies' need for recapitalization, especially because of the banks' credit crunch.

Nowadays, in Italy like everywhere else, trade unions and national states are being challenged and significantly weakened with regard to their institutional role and political sovereignty. A post-democratic Europe is more and more the arena in which the major decisions are being taken. The situation is being further aggravated by the increasingly multinational structure of modern companies (Ramsey and Haworth, 1989), which often makes it impossible to identify the centres of power where decisions affecting national/local units are taken.

The hard times we are living through and the growing imbalance of forces between capital and labour are anything but favourable for legal transposition from one country to another, importing

models produced during completely different periods of development. It is very unlikely that, in such a global scenario, Italy will be able to acquire by law what trade unions achieved in Germany or Sweden when class power relations were the most favourable ever from the standpoint of labour (Borioni and Leonardi, 2015).

Despite the hostile scenario and tough challenges, industrial and economic democracy, in the various forms of workers' participation in company management, will always remain the main objective of the labour movement.

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