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Legislating for Quality of Work Life[1]

First, there is a question of terminology: the U.S. phrase "quality of work life (QWL)" has introduced yet further complications to the area of concerns known previously as "worker participation." Improvements in lighting, heating, safety and canteen provisions could obviously improve quality of work life, but these would not require any form of worker participation, not even prior information that such improvement were about to take place. Changes in individual job specifications so that the specified duties have more variety, more customer contact, etc., require no worker participation. In fact, Herzberg, who gained considerable notoriety for this last kind of improvement in quality of work life, consistently insisted that, not only should the workers not be allowed to participate in such respecification of jobs, but neither should even their first-line supervisors.

However, the recent introduction of the notion of "quality of work life" has only extended the range of things that might be considered as relevant, largely to allow U.S. efforts to appear as belonging to the mainstream. What we have now is a wider range of relevant and irrelevant proposals for improving QWL (Table 1).

For my purposes I am going to define QWL as the quality of the work itself.

[1] Slightly revised from an unpublished document, 1976.

Table 1

Quality of Work Life

Industrial democracy	Participative	Self-managing groups
		Semi-autonomous groups
	Representative	Worker-directors
		Work Councils
		Joint consultation committees
Indivdual job enrichment		
Health, safety, physical milieu		

Having for so long taken the public position that legislation for work redesign would be ineffective, I find it ironic that the Norwegian parliament is passing just such legislation on the grounds that the six criteria I formulated on QWL[2] provide an adequate measure for effective enforcement.

I would like to explore this notion further, as I think it may indicate that times have changed. At a very general level I have argued in "Organisational Responsibility for Individual Development" (1976) that since "man is not an island unto himself" we have a responsibility to nurture and enhance the dignity of others, if we know how. If we knew of changes in work design that would enhance the dignity of people in their work, then we should seek those changes. If legislation could create such benefits without incurring even heavier costs, the legislation should be supported.

[2]See pp. 602-3 of this volume

The 1972 German Works Constitution Act requires the "tailoring of jobs to meet human needs." It is a bit humorless to talk of "tailoring," but the point is that such a requirement could hardly be made to hold up in a court.

I had been inclined to think in terms of laws like traffic ordinances that establish strict criteria such as kilometers per hour, pollution controls that specify parts per million and Factory Acts that specify space and luminosity. Even these kinds of laws pose major problems of policing.

Perhaps we should be looking at the sort of legislation that is required to protect wilderness areas from hard usage. Here we have a situation where the great majority of users would benefit from restrained usage and where traditional policing cannot be effective within any reasonable level of costs. This is not only a matter of staffing and patrolling--with its own damage to the environment--but also of the difficulty of getting effective prosecution in the courts. Effectiveness of legislation is not going to be a simple function of the determination of a legislature to protect the wilderness areas. To be effective, the legislation must base itself on the two conditions we have mentioned, namely, adequate policing and effective prosecution.

It is my belief that these two conditions also exist in QWL and that they share two others conditions that, while not central, have considerable nuisance value. Thus, just as trail bikers are getting a little paranoid about the four-wheel drive people (who tend to be older, more family oriented and of higher economic status) trying to scapegoat them, so we can expect some managerial fears that while QWL brings them immediate benefits, it also brings them one step closer to the guillotine. I think the experience of the Yugoslav Works Councils and of worker-director schemes is ample evidence that such beliefs are unjustified. Nevertheless, they will

still be aroused by any attempt to legislate in this field, no matter what party is in government. The other condition could jokingly be called "the Irish factor"--any legislation will be seen as too much legislative interference.

If legislation takes proper account of the two central conditions, these latter two conditions should not be more than temporary nuisances. If patience is shown in the enforcement of the law, they will probably be lesser nuisances for a shorter time.

Now for some suggestions for the form such legislation could take, with the Norwegian Law Section 12 and the ministerial exegesis as a starting point.

The law could establish that if X (or X%) of employees lodge a complaint about the design of their jobs with the appropriate government authority, then that authority will

(a) initiate discussions with the employers and unions to see whether they are willing to proceed directly to joint implementation of new job designs.

(b) If not, the authority will order a QWL survey of the work force in that establishment. If this confirms the complaint then

(c) the company, not just that particular establishment, will be

(i) struck off the list of those eligible for government contracts;

(ii) put onto penalty rates for contribution to an industry training levy (where

legislation for such levies is in force).

(d) These penalties would be lifted when management, employees and unions are satisfied that they have established a process for change. If this process breaks down, the above machinery of government intervention can be reinvoked.

This is a poorly defined procedure. It seeks the advantages that are sought in modern family law procedures, namely, that there may be common interests and, where there are, they should be a formative influence, provided that the interests of third parties are not thus endangered. Some points in the procedure need to be tightened up.

At stage (b) there is the question of what kind of "survey" would confirm the original complaint and hence justify penalties. It would be unwise to attempt to set scientific standards for such a judgment or to use a judge. Jury-type procedures seem more appropriate.

This intuitive model is not meant to be a blueprint but only an example. As an example, we can take it to pieces to see what kinds of things have been built in.

The first feature builds in a sort of threshold. Nothing is legally set in motion unless some employees want change, or their unions push them into a request for change.

Even when there is an employee initiative and an employer rejects it, a second hurdle has to be overcome. A survey has to show, to the satisfaction of a jury, that there is mismanagement of human resources. Only after this auditing function does the law call for economic sanctions against the employer. These sanctions produce bad publicity and they remain until the employer can convince the courts that the situation has been remedied. A repeat

survey at the employer's expense is one way of doing this. One would expect that there would be other, less costly, ways evolved--for example, site visits and representations to the courts by employees and their union representatives. Obviously some cases of collusion will arise because the sanctions may be seen to threaten the viability of the firm and hence lead to the loss of jobs. This is, however, no different from situations where wage levels are increased by a court or where pollution laws are enforced.

Note that no policing function is involved--no army of inspectors. If an employer decides that it is preferable to carry the cost of sanctions, then nothing can be done unless extralegal pressures are brought to bear by unions, other employers, employee or consumer boycott, etc.

I really do not think that more than this should be attempted by law. After all, the situation is one that can lead to benefits for both parties. The law would serve its purpose if it brought this fact to their awareness and, in the case of managers and employers, reminded them of their special responsibilities in managing the human resources of the society.

Reference

Emery, F.E. 1976. "Organisational Responsibility for Individual Development." National Labour Institute Bulletin, (September).