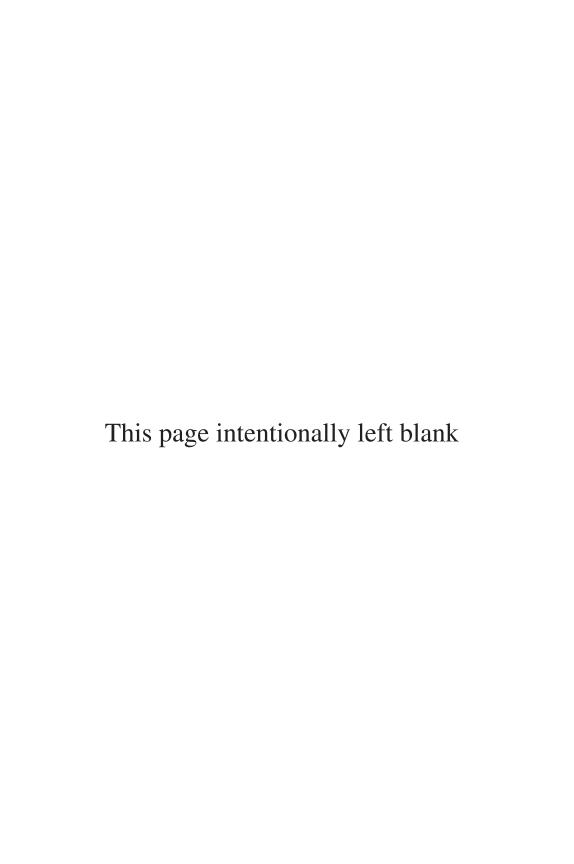# Voice and Involvement at Work

Experience with Non-Union
Representation

Edited by
Paul J. Gollan, Bruce E. Kaufman,
Daphne Taras, and Adrian Wilkinson

Routledge

"This book addresses many unanswered questions concerning the nature of NER inside firms and both how these systems work 'on paper' and how they evolve and influence companies and employees over time. The quality of the authorship assembled here is second to none. This is a volume that will be used by students and talked about by employment researchers for many years to come."

—*Rafael Gomez, Associate Professor in Employment Relations and Human Resources, University of Toronto, Canada*

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Voice and Involvement at Work

In the last decade, non-union employee representation (NER) has become a much-discussed topic in the fields of human resource management, employment relations, and employment/labour law. This book examines the purpose, structure, and performance of various types of employee representation bodies created by companies in non-union settings to promote collective forums for voice and involvement at the workplace.

This unique volume presents the first longitudinal evidence on the performance, success, and failure of NER plans over an extended time period. Consisting of twelve detailed, in-depth case studies of actual NER plans in operation across four countries, this volume provides unparalleled evidence on such matters as the motives behind the initial establishment of NER, different organizational forms of NER in industry, key success and failure factors over the long term, pro and con evaluations for employers and employees, and more. *Voice and Involvement at Work* captures an unequalled international and comparative perspective through a wide cross-section of different NER forms.

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Voice and Involvement at Work

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Introduction

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Competitive pressure on companies to boost productivity and performance has intensified in the last two or three decades due to a confluence of events, such as global integration of markets, a more finance-driven business environment, and industry deregulation and privatization. The ripple effects spread across all functional areas of business, affect all stakeholders, and can have positive or negative social consequences. Certainly employees and the human resource function are a case in point. Companies may react to greater competitive pressure by taking the low road through labour commodification, cost cutting, and worker disempowerment or the high road through investment in human capital, high-involvement work practices, and mutual-gain compensation.

This volume focuses on one particular component of human resource management and industrial relations practices—voice and involvement forums, committees and councils that represent employees in joint dealings with management outside of a union context. As a shorthand, we refer to these groups as non-union employee representation (NER). NER is a vivid case study of the two alternative paths companies can take in reaction to greater market competition. Proponents of NER, for example, advocate it as an important component of the high-road approach that builds more profitable organizations on employee empowerment and mutual gain. Critics, on the other hand, maintain that NER at best is ineffective in raising organizational performance and at worst is a component of the low-road approach, which increases profit by extending management control over labour and ridding the workplace of unions.

The idea and practice of giving employees opportunity for voice and involvement at the workplace has a long history, as does debate over its most appropriate form. Traditionally, the major institution for employee voice and involvement has been the independent labour union, often promoted as a way to achieve industrial democracy (Webb and Webb 1897) and constitutional government in industry (Commons 1905). However, the proportion of the workforce covered by unions has greatly diminished in most countries over the last three decades, opening or worsening what Freeman

and Rogers (1999) call an employee participation–representation gap. For this reason, and also from concern about boosting workplace productivity and national economic performance, interest in business, academic, and policy-making circles in non-union voice options has expanded greatly over the last two decades.

Government labour departments have for many years measured union coverage, and the data provide a reasonably reliable picture of the extent of decline in union density and its variation across firms and industries. No similar data exist on NER density, however, so our knowledge of the extent of non-union voice options—including not only indirect forms of representational voice but also direct face-to-face types of voice—and their variation among firms and industries is much less certain (for suggestive evidence, see Lipset and Meltz 2000; Freeman, Boxall, and Haynes 2007; Willman, Gomez, and Bryson 2009; Godard and Frege 2013; and Dobbins and Dundon 2014). We do know, however, that relative to independent unions, NER gives considerably more emphasis to a collaborative and integrative "grow the pie" philosophy and set of Human Resources Management (HRM) practices rather than an adversarial and distributive "split the pie" approach (Kaufman and Taras 2000; Gollan 2007; Wilkinson, Donaghey, Dundon, and Freeman 2014). Hence, key terms used in the context of NER are not *bargaining*, *contracts*, *shop stewards*, and *strikes* but, instead, *involvement*, *voice*, *participation*, *communication*, *team members*, and *mutual gain*. Whether these terms describe a functioning reality or a rhetorical facade remains a much-contested issue, as does the issue of whether the *union-avoidance* term should also be included in this list.

The available evidence from various countries (reviewed in what follows) does suggest that NER has expanded, albeit unevenly due to differences in national legal regimes, business practices, and cultural attitudes. Also, survey evidence and case studies indicate that NER comes in a wide diversity of forms with different agendas, functions, and influence resources (Dundon and Gollan 2007; Taras and Kaufman 2006; Kaufman and Taras 2010). Academic research finds that NER does have two faces, one positive and one potentially negative. In some companies, with the right kind of NER and in favourable business circumstances, it has a positive effect on both organizational performance and employee welfare; other studies, however, find that NER is largely a marginal and mostly ineffective practice and, sometimes, is employed mainly to keep workers from organizing independent unions (Dobbins and Dundon 2014; Pyman 2014).

This volume sheds additional light on these matters through in-depth case studies of non-union representation councils and committees in twelve organizations across four countries. Statistical studies using national survey data are very useful for identifying general NER patterns and effects (e.g., Bryson, Charlwood, and Forth 2006). They are, however, relatively blunt instruments for investigating the *process* of NER, the *strategies* and *motives*

of the parties, organizational factors that lead to NER *success or failure*, *qualitative and subjective* considerations and outcomes, and *actionable implications* for business and government decision makers. Believing these considerations are under-explored and also crucial to informed evaluation and successful practice of NER, we have opted for the case-study method. Of course, these case studies also reflect many features and influences to some degree unique to each organization, so generalizations have to be duly tempered.

We have selected case studies and authors with several innovative criteria in mind. First, we have sought to introduce a *comparative cross-national element* by selecting examples of NER from four Anglo-American countries. The countries are Australia, Canada, Great Britain, and the United States. These countries exhibit interesting variations in legal regimes, union density, collective bargaining arrangements, company HRM practices, and individualist/neoliberal versus collectivist/social democratic cultural-political orientations—all of which may have discernible effects on the form, function, and success of NER. However, we have restricted our set of countries to English heritage nations in order to maintain similarity in basic framework characteristics related to business, political, and social-cultural institutions and practices. One consequence is that we do not include European-style works councils in our ambit (see Gumbrell-McCormick and Hyman 2010; Nieuhauser 2014).

A second innovative feature of the case studies is that they provide a *longitudinal* analysis of NER, sometimes extending over several decades. A criticism of NER is that the programs can have a short half-life, sometimes taking off with much management push and enthusiasm but then, after a few years, fading as the crisis goes away or a new management team takes over. Other NER plans, however, have lived and prospered for several decades and even nearly a century. So our chapter authors, as much as possible, go beyond the point-in-time snapshot in order to discover more about the life-cycle pattern of NER and the factors that lead to longevity versus fade-out.

A third feature of the case studies is that they span both *for-profit and not-for-profit organizations*. Nine of the case studies are private-sector companies, varying in size from a few hundred employees to more than 70,000 and across a range of industries and lines of business (e.g., banking, low-tech and hi-tech manufacturing, airline and rail transportation, and oil production and refining). Three of the case studies are public-sector organizations, including a national police force, a university, and a federal government.

Finally, we have chosen our authors to bring a mix of *human resource management (HRM) and industrial relations (IR) perspectives* to the case-study analyses. This combination gives adequate representation to the diverse purposes and perspectives surrounding NER, including organizations' interests in higher productivity and profit and workers' interests in improved terms and conditions of employment and a meaningful say at

work. We also bring together HRM and IR in this volume in order to promote more cross-field collaboration and melding of viewpoints among our research colleagues. IR researchers have taken the lead in researching NER but do so more from a perspective of workforce governance and interest representation for workers (Ackers 2010). Many HRM researchers instead look at employee voice structures as a management communication-involvement tool evaluated primarily by their effect on organizational performance (Klaas, Olson-Buchanan, and Ward 2012). They also often gloss over the substantive difference between direct and indirect forms of participation, including the sometimes complicated legal status of NER (Morrison 2011). We seek to achieve a better melding of these diverse perspectives.

NER: AN OVERVIEW OF FORMS AND FUNCTIONS

NER is an umbrella term for an unusually diverse set of forms and practices. Further, the nomenclature varies from country to country. In Canada, for example, a large-scale NER group may be called a Joint Industrial Council (JIC) or Employee-Management Advisory Committee (EMAC), while in the UK and Australia a popular term is Joint Consultative Committee (JCC). In the United States, labour law heavily restricts enterprise-level NER forms (discussed in what follows), and so it typically appears in small-scale form, such as an employee-involvement group, joint safety committee, or gain-sharing committee.

NER is one form of providing voice to employees, but there are also many others. Voice is defined in different ways in the academic literature. Wilkinson, Dundon, Marchington, and Ackers (2004) conclude from field interviews that managers associate workplace voice with "consultation," "communication," and "say." They also find that managers tend to define workplace voice along two dimensions. The first is voice *form* (direct vs. indirect) and the second is voice *agenda* (shared vs. contested). In a follow-up article (Dundon, Wilkinson, Marchington, and Ackers 2004), they suggest these two dimensions need to be rounded out with a third. This dimension is voice *influence* and its close synonym, *power*.

Accordingly, the three principal dimensions of workplace voice can be specified as *form, agenda, and influence*. Each, in turn, varies along a continuum with endpoints defined by polarities. For example, the three voice dimensions may be represented as (with correlates):

- Direct versus indirect (individual, face-to-face vs. collective, representative)
- Shared versus contested (integrative, win-win vs. distributive, win-lose)
- Communication versus influence (suggestion, complaint vs. cost or benefit action)

These dimensions of voice yield a 2 x 2 x 2 matrix and eight permutations, which may be ordered from low to high in terms of organizational impact and employee influence. This idea is given parallel representation in a chapter by Wilkinson, Gollan, Marchington, and Lewin (2010) on conceptualizing employee participation. They show in diagrammatic form an "Escalator of Participation" (p. 11). It is a forward-sloped line with five steps going from low to high participation, based on degree, form, level, and range of subject matter.

Figure 1.1 repackages their diagram into an "Escalator of Voice" or, alternatively, "Menu of Voice Options." The figure shows that voice options in an organization vary along a continuum from low to high, as measured by an index of the three voice dimensions identified (form, agenda, and influence). For simplicity, the continuum of voice forms is presented along a straight line rather than an ascending eight-step function. At the low end are voice options where all three dimensions take a low value in terms of organizational impact. An example is the triplet Direct, Shared, and Communication, such as when an individual employee engages in cooperative discussion with a direct supervisor about a suggestion to improve customer service. At the high end are voice forms where the three dimensions collectively create the largest organizational impact. An example is Indirect, Contested, and Influence, such as a strong trade union that uses collective bargaining and strikes to gain higher wages for workers. Thus, at the left-hand side of the continuum are individual, informal, and communication types of voice, while moving rightward on the continuum leads to voice forms with increasingly collective, formal, and power attributes.

Figure 1.1   Voice Frequency Distribution, United Kingdom
Source: Willman, Gomez, and Bryson (2009): Tables 1 and 3.

Also shown in the diagram is a voice frequency distribution displayed above the continuum. It is a plot of data showing the percentage of British workplaces (twenty-five or more people) in 2004 with various voice forms. British data are used because they come from a nationally representative source (the 2004 Workplace Employment Relations Survey [WERS]), and the country's legal system is one of the least restrictive regarding employer–employee choice among voice options (Freeman, Boxall, and Haynes 2007; Willman, Gomez, and Bryson 2009).

In this survey, only a small minority (12 percent) of workplaces are reported as No Voice—meaning absence of at least one *formal* voice mechanism (informal voice may well still be present). Of the 88 percent that have a voice mechanism, they sort into three broad categories—with a fourth small residual category, "Nature not reported" (2 percent): Nonunion Only (48 percent), Union and Nonunion (34 percent, or dual channel), and Union Only (4 percent). In Figure 1.1, the No Voice option is placed at the left-hand endpoint (least influence), the combined Union/Nonunion Voice option is placed at the right-hand endpoint (having the most forms of voice and thus presumptively most influence), and Nonunion Only and Union Only occupy positions to the left and right of the middle. Rather than show just the Nonunion Only category, it is modestly disaggregated to show three particular types of voice arrangements. They are Team Briefings (71 percent), Problem-Solving Groups (30 percent), and Joint Consultative Committees (24 percent). These three voice forms are selected from a longer list provided by WERS for the Nonunion Only category because they help draw out the visual/descriptive notion of a voice frequency distribution and also illustrate the voice escalator idea in terms of ascending from direct and mostly communication forms to indirect and greater influence forms. Note that the bars in the figure do not sum to 100 percent because the percentages for these three items are non-commensurate (*within* frequency for Nonunion Only).

The key point to grasp from Figure 1.1 is that the central domain of NER is in the relative middle of the overall voice continuum. NER is by definition an indirect form of voice and, thus, typically involves groups of employees organized to represent others. This places NER to the right of the low end of the continuum occupied by organizations having only a direct form of voice. Examples are voice provided solely on an individual face-to-face basis, such the traditional "open door" policy (subsumed in the No Voice category in Figure 1.1). Going one step up the escalator, another form of direct voice is a morning meeting between team members and their supervisor (Team Briefings in the diagram). On the other hand, NER does not extend all the way to the high end of the voice continuum because it ranks lower than trade unions and other forms of independent representation (e.g., professional associations) on the dimension of influence/power. A NER form, for example, is the JCC in Figure 1.1 which is an indirect form of voice—like a trade union—but which does not use formal bargaining or strikes to gain more

from the employer. As indicated earlier, sometimes organizations have both union and non-union voice forms (e.g., collective bargaining over wages and hours, joint employee–management consultation over process improvement), and this combination we treat as "most voice" and locate it at the high end of the continuum.

The fact that NER is in the relative middle of the voice continuum provides insight on why it is controversial and relatively fragile. As viewed by employers, NER is a significant delegation of authority, control, and influence to employees, and many shy away from it for this reason. Employees, on the other hand, often see NER as giving them too little authority, control and influence and find it disappointing viz. other more independent voice options. Hence, by being in the middle, NER can seem "too much" for employers but "too little" for employees.

Within the NER section of the voice frequency distribution are many different structures with different forms, agendas, and influence, creating a NER continuum within the larger voice continuum. A deeper look at the NER continuum is provided in Table 1.1. It depicts variation of NER in terms of six dimensions: form, function, topic, representation mode, extent of power, and degree of permanence. The elements in each column are arranged in a roughly ascending order from low to high in terms of organizational breadth, influence, and distributive agenda. Note that the elements going across in a row are not comparable.

In terms of organizational form, NER starts at the individual representative level, such as an ombud, and extends upward in steps, such as work group, plant department, plant-wide, company-wide, and occupation-wide. Regarding function and topic, NER has a multiplicity of objectives, starting with integrative items such as communication, safety, and employee involvement in production quality and extends upward to more distributive items, such as consultation on wages and benefits, grievance adjudication, and union avoidance. Similar variation occurs with respect to the other dimensions, such as whether representatives are elected or appointed, the NER group is consulted or has decision-making rights, and the temporary versus permanent nature of the group.

An insight of Table 1.1 is that NER is quite multi-faceted along numerous dimensions, thus making generalizations more difficult and stereotypes more inaccurate (also Dundon and Gollan 2007). Also, a significant portion of NER is relatively small scale and focused on one or several topics, such as safety committees and peer-review dispute-resolution panels, with evident pros and cons regarding effectiveness, impact, and employee influence. Finally, one also sees a continuum in NER groups with respect to whether they are complements or substitutes for what unions do and, also, a high-road or low-road form of union avoidance—often framed as union substitution (e.g., keeping unions out through superior wages and treatment) versus union suppression (e.g., heavy-handed methods, such as firing union supporters).

Table 1.1 Examples of Diversity of NER Plans

1. Forms	2. Functions	3. Topics	4. Representation Modes	5. Extent of Power	6. Degree of Permanence
Ombud	Communication & Information Flow	Benefits, Including Pensions and Health Insurance	Internal to the Firm (e.g., Elected Representative from among Workers in the Group)	Completely Co-Opted by Management	Short-Term, Ad Hoc Committee
Joint Safety Committee	Production and Organizational Coordination	Safety/Health	External to the Firm (e.g., Players' Agents in Sports)	Scope of Power (e.g., Single Topic or Broad Authority)	Time-Limited, until a Problem is Solved
Dispute Resolution Panel	Employee Morale & Esprit de Corps	Working Conditions	Representatives Appointed by Management	Informal Consultation	Disbandable Structure upon Notice by One or the Other Party
Scanlon Plan & Gain-Sharing Committee	Education and Training of Employees	Grievances/ Dispute Resolution	Representatives Elected by Workers (Secret Ballot)	Advisory Groups	Permanent Structure
Departmental Production & Coordination Committee	Employee Relations and Disposition of Irritants	Management Problems	Degree of Independence Given to Representatives	Decisions Made by Consensus Only	
Quality Improvement Committee	Employee Involvement	Employee Relations Climate		"Dealing with" Management through Preparation of Formal Positions	
Gender/Ethnic/Sex-Identity Groups	Corporate Culture	Production Issues		Chairing or Cochairing meetings	
Employee–Management Advisory Committees	Cooperation & Common Purpose	Equipment/ Capital Issues			
	Management & Employee Development	Customer Service			

Cross-Divisional Council for Employment Issues

Plant Council

Employee Committee on Board of Directors

Company-Wide Representation Systems (JIC, JCC)

Staff Associations

Professional Advocacy Groups

"Trojan Horse" for Union Organizing

Union Substitution

Union Avoidance

Lobbying Government

Quality of Products and Production

Business Strategy

Wages and other Terms and Conditions of Employment

Status of the Occupation

Ability to Seek Professional Expertise Outside Firm

Developing the Agenda

Negotiating

Distribution of Minutes and Positions

Ability to Take Action to Promote Positions

Vote-Taking in NER; Majority Wins

Worker Veto Power over Change

CONTROVERSY OVER NER: A FOUR FRAMES PERSPECTIVE

Until twenty years ago, researchers in management and labour economics mostly ignored NER, while researchers in industrial relations, labour history, and labour law were either dismissive (NER = shams) or critical (NER = union busting). For example, in their well-known book *What Do Unions Do?*, Freeman and Medoff (1984: 108) refer to NER plans as "window dressing," while a union leader (Basken 2000) derisively refers to NER groups as "donkey councils." As a third example, Gumbrell-McCormick and Hyman (2010) observe that German-style works councils—a definite upward step in employee influence and interest representation relative to Anglo-American forms of NER—were nonetheless until recent years regarded by a number of IR researchers as "marginal phenomena" because they lacked the right to strike and were intended to promote cross-class collaboration.

In the last two decades, however, the climate of opinion toward NER has shifted and broadened, partly because of union decline but also because of the rise of a unitarist-inspired high-performance work model (Dundon and Gollan 2007; Kim, MacDuffie, and Pil 2010; Harley 2014) . Looking back, the ice was broken by two books. The first, *What Workers Want* (1999) by Freeman and Rogers, found from a national survey of American workers that only a minority of employees want union representation and a larger proportion desire a more cooperative and less bargaining-oriented type of representation. They also found evidence of a large participation–representation gap (for Britain, see Towers 1997). These findings, coupled with the marked erosion of union density in most countries, stimulated IR researchers to think about voice alternatives to traditional unions. The second ice breaker was *Nonunion Employee Representation* (2000) by Kaufman and Taras. It dared to touch the "third rail" in North American industrial relations, the company union, and in thirty-one chapters gave a more balanced and open-minded investigation of all forms of non-union employee councils and committees from several different countries. Since then, numerous other books and articles have followed, containing to be sure continued skepticism/criticism but also counterbalanced by greater positive evaluation (e.g., Dundon 2004; Gollan 2007).

Illustrative of the shift in opinion, Freeman has recently much liberalized his position on NER. In the book *What Workers Say: Employee Voice in the Anglo-American Workplace* (2007), Freeman, Boxall, and Haynes end with this statement (p. 220):

> For their part, governments should encourage workers and firms to experiment with alternatives that best fit their circumstances rather than trying to box both sides into a single institutional frame. To enable workers to obtain the voice they want, the state must guarantee the right to union representation, which many workers want, and also give workers and management the right to establish nonunion forms of representative voice, where they seek that mode of voice regime.

The traditional animus toward NER, its continued controversy, and reasons for a broader and more nuanced view in recent years can be better appreciated with the help of the well-known IR *frames of reference* schema. Budd and Bhave (2008) explain that the frames-of-reference concept originates with Alan Fox, an industrial sociologist affiliated with the British Oxford School of industrial relations, in a report prepared for the Donovan Commission (Fox 1966). Fox originally divided industrial relations into two frames, unitarist and pluralist, but later broadened the typology to include a radical frame (Fox 1974). Budd and Bhave add a fourth frame, egoist (explained in what follows). They give a heuristic definition of a frame of reference as "how ones sees the world" and then, more formally, as "a theory used to guide and evaluate behaviors, outcomes, and institutions" (p. 92).

The frames-of-reference idea is used in industrial relations to represent alternative conceptions of the employment relationship. The exact number of frames varies somewhat from author to author, but Budd and Bhave (2008) specify four: egoist, unitarist, pluralist, and critical. They display the four frames in a table and list each frame's key characteristics. We have modestly reworked their table so it gives more highlight to employee voice and the different assumptions and implications each frame has for voice. See Table 1.2. We first describe each of the four frames of reference and then apply them more specifically to NER.

The four-frames-of-reference typology is a useful construct for understanding the long-standing controversy and shifting opinion about NER (also Dundon and Gollan, 2007; Kaufman and Taras 2010). Recall from Figure 1.1 that NER is one particular form of voice, situated in the middle between the informal individual voice option (No Voice in the diagram) and the collective bargaining option on the other end through independent labour unions—with the possibility of a complementary role between unions and NER at the far end of the voice continuum. An insight of the frames-of-reference model is that people's evaluation of NER depends on which frame of reference—that is, positive and normative lens—they adopt to analyse and evaluate NER.

Evidently, the verdict on NER varies along another continuum, starting at one end with the individualist frame and extending to the other end with the critical frame. If the employment relationship fits the individualist frame, the verdict on NER is "unnecessary" and "inefficient" because the combination of external labour markets and the exit option serves as an effective communication and adjustment device and does not require expensive management and organizational resources to implement. If workers feel exploited or unfairly treated, they can "voice with their feet" by leaving one company for another (Boeri and Van Ours 2008; Budd 2004).

If the employment relationship fits the unitarist frame, however, a much different verdict emerges. Viewed through a unitarist lens, NER is an essential component of a cooperative/mutual-gains workplace. The exemplar is

Table 1.2 Employment Relationships in Four Frames of Reference

Frame	Organizational Vision	Behavior Principle	Policy Stance	Voice Form
Individualist	Free Market	Competition	Laissez Faire	Open Door/Exit
Unitarist	Harmonious Team	Cooperation	Business Friendly	Bilateral Communication/ Employee Involvement
Pluralist	Competing Interest Groups	Negotiation and Compromise	Institutional Power Balancing and Democratization	Collective Representation: Councils and Unions
Radical	Capitalist Monopoly	Conflict and Struggle	Replace Capitalism	Workers' Control

today's High Performance Work System (HPWS) model (Appelbaum, Bailey, Berg, and Kallberg 2000; Boxall and Purcell 2011). With well-developed internal labour markets and considerable specific human capital, the exit option no longer works well and firms need an organized in-house method for bilateral communication, coordination, and problem solving. Given the mutual-gain orientation of unitarism, NER is an effective form of voice for workers because it promotes high organizational performance, which is shared with workers in the form of pay for performance, enhanced employment security, and fair treatment (Avgar and Owens 2014). Typically employees in unitarist firms are not represented by unions, but this result is not anti-social because the workers perceive no need for one. Hence, in the unitarist frame, the NER verdict shifts to "effective" and "mutually beneficial."

Next is the pluralist frame (Kochan 1998; Heery, Bacon, Blyton, and Fiorito 2008). External labour markets are imperfect and tip bargaining power in favour of companies, resulting in below-competitive wages and conditions. Workers need a countervailing form of interest representation, therefore, which NER cannot provide but independent trade unions can. Also, employees' impeded exit and employers' property right to run the business as they please means internal labour markets and workforce governance procedures are dominated by employers and often operated in a unilateral and perhaps coercive manner. Here again NER is inadequate; in fact, it is worse than inadequate because companies often use NER to preserve and strengthen their monopoly position by keeping workers from successfully getting outside representation (Hiatt and Gold 2000). Thus, in the pluralist frame, the verdict again shifts, this time to NER as "tool of employer domination" and "union avoidance."

The pluralist verdict is rendered with an even more negative pronouncement in the critical frame. NER is part of a larger strategy used by capitalist firms to exploit the labour force, preserve capitalist hegemony inside the firm, and prevent formation of independent trade unions to lead the class struggle (Hyman 1975; Lucio 2010). Employers in the unitarist or pluralist frames may simply be naively optimistic or short-sightedly opportunistic when they use NER; in the critical frame, NER is a more explicit and long-run element of capitalist domination used to extract surplus value and quell working-class resistance. The critical frame's NER verdict, therefore, is "exploitative" and "suppressive."

This framework yields a number of useful insights with regard to explanation of NER's controversial history and shifts over time in academic and public opinion on NER's workplace efficacy and appropriate legal regulation. NER, for example, originated in Europe and the United States in the late 1800s to early 1900s when the first companies pioneered in-house shop committees and works councils (Kaufman 2000). Here first appeared NER's positive unitarist face, billed as an innovative attempt by progressive employee welfare-oriented companies to solve the labour problem by

fostering greater mutual trust, confidence, and cooperation. At the same time, here also first emerged a pluralist and critical assessment of NER for, in the eyes of critics, these early shop committees were irredeemably shot through with paternalism and union avoidance.

In the era of welfare capitalism after World War I, NER prospered—particularly in North America where several hundred companies, including many among the "corporate liberal" wing associated with the Rockefeller family and Special Conference Committee (e.g., the Standard Oil company and corporate spin-offs), introduced formal plans of employee representation (Kaufman 2000; Rees 2010). Evaluations of NER were guardedly positive, except among the trade unions, who hated them. A movement for plant-level joint committees also blossomed in the UK after World War I (known as Whitley committees), but they were expressly envisioned as including trade unions and thus were not NER (Fox 1985; Gospel 1992). Australia, because of its small industrial base at this time and centralized system of arbitration and extensive union density, had little NER presence. A person viewing NER in North America in the 1920s, therefore, would be more inclined to use a unitarist frame—or perhaps "liberal/progressive pluralist" frame—while a person in the UK would tend toward a pluralist or, in the case of leading labour intellectuals such as the Webbs and GDH Cole, a critical frame.

The entire tenor of thought about NER shifted dramatically in the Depression era of the 1930s and war years of the early to mid-1940s. The Great Depression greatly discredited the corporate liberal employers, and to save themselves from bankruptcy, these companies abandoned mutual gain and joint consultation and instituted several waves of deep wage cuts, massive layoffs, and work speed-ups (Kaufman 2000; Moriguchi 2005). The unitarist model lay in shreds in North America by 1933. Then in the United States, the New Deal arrived and ushered in industry-wide collective bargaining as a way to promote economic recovery (through higher wages and more consumption spending) and social justice (through union-led industrial democracy). Criticism of NER as a worthless sham and union avoidance scheme reached such a pitch in the United States that such organizations were largely banned under the National Labour Relations Act (NLRA, 1935). Although Canada adopted a version of the NLRA in 1944 (PC 1003), it did not ban NER, in part because Prime Minister Mackenzie King had three decades earlier helped Rockefeller design and install employee representation plans at his companies and remained favourable to them (MacDowell 2000; Taras 2000). Nonetheless, like in the United States, union density shot up in Canada into the 1950s, and NER seemed to be caught somewhere between an historical anachronism and marginal player at a few remaining progressive non-union companies. For all the same reasons cited earlier, NER continued to be an at-best shadow presence in Britain and Australia, particularly after World War II when union density was 80 to 100 percent among major companies in a number of manufacturing, transportation, utility, and natural resource industries (Gollan 2000).

The half century after World War II represented something of a consensus on the merits of the pluralist frame, including a skeptical to hostile stance on NER and favourable and encouraging stance on independent unionism (e.g., Bernstein 1970; Brody 1994; Hyman 1997). Union movements were given policy support in all four countries, and union densities rose to high points in the twentieth century. In the United States, NER had largely been ripped out root and branch, in Canada it largely survived in a few mostly ignored niches, and in the other two countries it was largely smothered and made irrelevant by a combination of industry-wide associations of employers and unions and underdeveloped personnel/human resource functions (Gospel 2014; Wright 2014).

Starting in the 1980s and continuing forward to the world financial crisis of 2008 to 2010, the individualist frame in the form of neoliberalism and the Washington Consensus made a comeback, most strongly in the United States but also with substantial effect in Australia, Britain, and Canada. Free-market solutions were emphasized while pluralist institutions, such as trade unions, protective labour laws, and social welfare programs, were singled out for criticism and dismantling. Union density in all four countries retreated and union power and influence diminished, opening up and worsening the participation–representation gap in the labour market (earlier described). Although the individualist frame gives little attention or place *per se* to management-led HRM, proponents of the unitarist frame saw that neoliberalism had created a strategic opening and receptive public opinion for HRM and took advantage of it. Traditional personnel management was repackaged as HRM with much greater emphasis on a strategic form of unitarism anchored on employee commitment and involvement in a high-performance work system (Boxall and Purcell 2011). Thus, the pluralist and critical frames retreated, as did trade unionism, while the individualist and unitarist frames advanced, bringing with them a renewed opportunity for NER to become an important and accepted player in the high-performance workplace.

The financial crisis of 2008 to 2010 considerably tarnished the neoliberal/individualist frame but so far has not seemed to noticeably hurt the unitarist frame or advance the pluralist and critical frames. As we write, therefore, the opportunity space for NER seems to remain open and growing, partly because unions show little sign of rejuvenation and non-union HRM continues to grow. The large overhang of surplus labour in all countries, however, is a threat to the continued expansion and legitimacy of both unitarism and NER because it incents firms to shift toward the low road.

We have given this review partly to put NER in a larger historical context. But another purpose has been to emphasize that controversy over NER arises in part because observers analyze and evaluate it through quite different positive and normative lenses. The verdict on NER comes out quite differently depending on whether it is observed through an individualist, unitarist, pluralist, or critical frame. Over time, the relative popularity of

these alternative frames moves up and down, and so does the popularity and evaluation of NER.

INDIVIDUAL COUNTRY CONTEXTS

Because this volume features NER case studies from four countries—Australia, Canada, United Kingdom, and United States—some overview of national contextual factors is also helpful. As indicated earlier, all four countries share a common English language/heritage tradition, yet, to a surprising degree, they differ with respect to the NER experience and treatment. Provided next is a brief summary.

Australia

Viewed historically, the dominating feature of the Australian employment system is the centralized conciliation and arbitration system (i.e., awards system; Isaac and Macintyre 2004). Established at the federal level in 1904 and enacted by individual states at about the same time and in a largely similar form, the system mandated that in order to prevent damaging strikes and lockouts, the parties to an unresolved industrial dispute should submit their case for review and resolution before a federal or state court of conciliation and arbitration. Although not originally intended to be a wage-fixing institution, the court system soon took on this role as it settled bargaining disagreements by issuing what in effect were arbitration awards that set wages, hours, and most of the other terms and conditions of employment. This system fostered a high union density level (above 50 percent in the post–World War II period) because unions represented cases before the court and monitored employer compliance with the awards. Awards were typically extended to cover an entire occupation or industry, including employees not belonging to a union.

The combination of the centralized arbitration system, high union density, industry-wide coverage, and relatively small industrial base in Australia limited the space and scope for management-led HRM programs and innovations, particularly of the NER type, at the enterprise level (Wright 2014). For example, joint committees in other countries were often created in the first third of the twentieth century to help manage various employee welfare programs, such as cafeterias, savings and benefit associations, and recreational programs. Such activities were sparse in Australian industry, however, per one estimate that in the mid-1920s there were only six full-time welfare administrators in the entire country (Kaufman 2007: 24). Later, and particularly in conjunction with World War II, more companies created enterprise-level committees and councils, but they were typically limited to joint productivity or safety committees. As a general statement, neither employers, unions, or government were much interested in

workplace committees, whether billed as employee participation or industrial democracy.

Since the mid-1980s, the economic, legal, and business environment in Australia has shifted—perhaps transformed is not an overstatement—in ways that have encouraged development and spread of NER (Gollan 2000). First, several Labour-led federal governments, followed more dramatically by a Conservative-led government, pared back, decentralized, and depowered the arbitration/awards system until today only a shadow remains. A particular emphasis, starting with the Keating government's Industrial Relations Reform Act (1993), was to spur productivity in firms and flexibility in labour markets by reorienting decision making to managers and employees at the enterprise level. Toward this end, the act allowed non-union companies to establish with their workforces a collective "Enterprise Flexibility Agreement." Here was an encouragement to NER because the law required that employers take reasonable steps to consult and inform employees—although it did not specify an institutional form for this process. In 1996, enactment of the Workplace Relations Act provided additional stimulus to joint workplace consultation. It enabled employers to enter into collective or individual contracts with non-union employees, known as Australian Workplace Agreements, but allowed that the employee(s) had the right to be represented by a representative agent in the negotiation process.

In a highly controversial move, the Howard-led Conservative government enacted in 2005 legislation popularly known as Work Choices. This law abolished most of the century-long central wage-fixing system and in a number of ways encouraged individual bargaining and enterprise bargaining and undercut union reach and power. Although again favorable to NER, the effect was indirect because no provision specifically mandated NER or specified a preferred institutional mechanism.

The unpopularity of Work Choices contributed to the defeat of the Howard government and election of a Labour Government under Kevin Rudd and Julia Gillard, respectively (Wailes 2010). New legislation, the Fair Work Act (2009), was enacted that substantially revised Work Choices. The act was a plus and minus for NER. On one hand, the legislation broadened and strengthened union representation and bargaining coverage and rights and, typically, unions see NER as a threat and try to squash it. However, the act also encourages extension of employee representation and consultation through a pluralism of devices, including complementary NER channels in which collective bargaining is in place (a dual-channel system), an articulated vehicle for consultation in negotiation of enterprise agreements, and consultation with employees (with or without a committee structure) in cases of substantial organizational change.

Empirical evidence on the density and performance of NER in Australia is growing but remains limited and somewhat fragmented. Starting from near zero in the early 1980s, forms of representative consultation and participation outside the formal structure of collective bargaining have significantly

expanded, although they are still definitely a minority phenomenon. Findings from the Australian Worker and Representation and Participation Survey (2003–04), reported in Teicher, Holland, Pyman, and Cooper (2007), paint this picture of voice, participation, and representation in the Australian workplace (p. 138):

> A majority of respondents report access to one or more forms of nonunion and direct-voice arrangements, with 83 percent of respondents being in a workplace with an open door policy. . . . A smaller yet substantial number of workers report the occurrence of regular staff meetings (60.1 percent), and the presence of a personnel or human resources department or person (48.1 percent). Committees of employees (38.9 percent) and employee involvement programs such as quality circles (35.8 percent) are the least common nonunion voice arrangements. . . . Union presence is positively associated with the presence of several nonunion voice arrangements in Australia. This finding suggests that, contrary to intuition, nonunion arrangements complement rather than compete with union voice. . . . Overall, 50.3 percent report the presence of joint consultative committee in their workplace. . . . A majority of respondents rate their nonunion joint consultative committees as effective (79.9 percent).

Canada

One of the perplexing features of the Canadian industrial relations system is that it simultaneously protects collective action and unionization and is almost entirely permissive about the ability of enterprises to run non-union systems. This openness to various types of collective action on the part of workers is little known and greatly underappreciated.

Throughout the 1910s and by the end of World War I, Canadian public policy became cautiously interested in endorsing developments of "joint industrial councils as a means of furthering greater co-operations between employer and employees." This was the resolution of the 1919 Royal Commission on Industrial Relations. Experiments in cooperation were featured in the government's nascent Department of Labour's publication *Labour Gazette*.

The interest in non-union representation was not by happenstance. Rather, it was due to the influence of William Lyon Mackenzie King, who founded the department and was Labour Minister, a powerful elected politician and then prime minister for decades (Taras, 1997). As author of the Rockefeller Joint Industrial Council Plan, he was more intimately involved in non-union systems than any other policy maker of his time, or indeed, in the whole of the previous century. He strongly believed in encouraging collective bargaining—particularly in the absence of unions. He adroitly sidestepped the issue of whether joint councils should include or bypass

unions. Mackenzie King was a keen researcher and urged the systematic collection of data in industrial relations. For example, the 1921 Department of Labour study on "Joint Councils in Industry" provided a detailed portrait of the range of issues, forms, and functions of non-union systems. Non-union plans were widely diffused throughout Canada (MacDowell, 2000; Taras, 2000).

Importantly, as there were bans against the unionization of public-sector employees, non-union plans also were developed for the civil service and the iconic paramilitary Royal Canadian Mounted Police, two chapters in this book. So not only did the non-union systems proliferate in industries that could be targets for unions as avoidance vehicles, but they also grew into robust union substitution systems.

In 1925, a major legal case known as *Snider* resulted in the surprise decentralization of Canadian labour relations and the finding that each province would have exclusive control of labour law within its provincial borders, except for federal enterprises. The Canadian policy scene is tremendously complex as a result of the decentralization, but there is a common model that prevails in the country, with comparatively small differences from one jurisdiction to another.

Instead of following the American National Labor Relations Act (NLRA, or Wagner Act) 1935 ban on company unions, the Canadians did not create a comprehensive Wagner Act equivalent until 1944, when the political and economic environment had changed profoundly. Whereas the American approach had been shaped by the Great Depression, Canadians wrote their labour law while Canada was fighting in Europe and Canadian employers feared Congress of Industrial Organizations (CIO) unionizing at home. Company unions were an attractive alternative to the type of radical industrial organizing favoured by the CIO. The war gave the federal government under Prime Minister Mackenzie King the authority to pass a labour law for the entire country. The Canadian law, PC 1003, contained many features of the Wagner Act, but it also emphasized Mackenzie King's traditional emphasis on conciliation and dispute resolution. PC 1003 was entirely silent on the matter of company unions. Indeed, during World War II, any form of worker–manager participation plan was encouraged as supporting essential war industries and the effort to save the world from fascism. After the war, the provinces tended to adopt the federal PC 1003 approach, and no province has banned company unions or created a proactive policy approach to them. Instead, the non-union model is almost entirely unregulated.

Given the constant presence of non-union plans, it is somewhat surprising that the dominant interest from scholars, practitioners, and policy makers involves unions and the regime of laws and protections that have been built to regulate relations in the unionized sector. The country has about 30 percent unionization, with growth of union density in the public sector and decline in the private sector.

Data on the non-union representation rates are difficult to come by. In 2000, Lipset and Meltz reported that about one fifth of non-union employees have formal representation other than unions (p. 225). This estimate was confirmed by Campolieti, Gomez, and Gunderson (2013). They found that "Canada with its more permissive legal framework may in fact be creating non-union institutions that are (at present) acting as substitutes to traditional unionization . . . NER appears to occupy spaces that are not covered by union workplaces" (p. 389).

A recent study (Timur et al., 2012) of six unionizations in Canada documents that the process of unionization differs between workplaces that have no form of collective representation at all—individual dealing systems—and those that start with a non-union plan. Workers who have their own non-union system are more reluctant to unionize, more likely to offer management another chance to rectify conditions, and when truly frustrated, worker representative in non-union systems lead the drive to unionize and become union officials. This recently happened even in the rarefied case of a 2012 faculty organizing drive at Osgoode Hall Law School at York University.

Now we come to a dramatic turn of events in Canada and a possible challenge to the non-union arena. To the astonishment of most experts, in 2007 the Supreme Court of Canada issued a decision known as *B.C. Health* that declared that Canada's Charter of Rights and Freedoms (the country's modern constitution) Section 2(d) guarantee of freedom of association protects the right to bargain collectively. Heralded as a remarkable victory for unions, the decision has ushered in a new era of litigation over the rights of unions. The Supreme Court has held that legislatures (and employers) must not "substantially interfere" with the ability of workers "to exert meaningful influence over working conditions through a process of collective bargaining conducted in accordance with the duty to bargain in good faith" (*B.C. Health* at para 90). There have been a series of cases (e.g., *Fraser v. Ontario*, *Mounted Police Association of Ontario*, and others) that seek clarity around the meaning of collective bargaining.

Here we arrive at the crux of the issues that might arise in the courts in the next decade. Might a non-union plan be construed to be a form of collective bargaining? Alternatively, would it be considered a form of "substantial interference" by employers? Is a non-union system with a duty to bargain in good faith permissible as a constitutionally protected entity? Should the courts privilege the Wagner model over other nascent forms of collective rights? These questions are entirely unresolved. Given Canada's protection of unions but silence on non-union systems, we anticipate interesting mental contortions as the highest court struggles with questions that would never have arisen prior to constitutionalizing the right to collective bargaining.

In conclusion, for Canadians interested in the interplay between unions and non-union systems, the riveting action will be in the highest courts rather than on the shop floors.

United Kingdom

Shop committees and joint consultative committees have a long history in Britain. A leading progressive employer, Cadburys, established an employee welfare department in 1902 and also installed an employee suggestion system (Nivens 1967: 4). Three years later it installed shop committees, in part to provide joint management of certain welfare programs (e.g., the plant cafeteria) and help coordinate and implement the suggestion system. The latter is a very early example of using NER to promote employee participation and higher organizational performance.

Although English newspapers and business periodicals carried many stories before World War I about the development of works councils and shop committees in advanced German companies and their purpose of fostering greater collaboration and cooperation between management and workers, the movement did not gain much foothold in Britain. Fox (1985) provides this portrait (p. 255):

> The British scene constituted unfavourable soil for joint works councils. Here and there employers had set-up worker-elected committees, having no connection with the unions and usually excluded from industrial questions, to deal with provident, welfare, canteen, and recreative facilities. Others might give employee spokesmen a voice in co-partnership or profit-sharing arrangements . . . Most, however, . . . were ineffective [and] isolated experiments.

He then gives this explanation for NER's lack of traction in British industry (p. 255):

> There was little in Britain's history, traditions and culture to lead many employers to suppose there was much to be gained from works councils. A social context of laissez-faire, individualism, and self-help, market forces, and emphasis on arms-length contractual relations . . . gave little encouragement to either employees or employers to think in terms of a "works community" [i.e., unitarist organization] which could command the participative loyalty of the rank and file. And there was certainly no prospect of Britain's trade unions following the lead of many German unions . . . [and supporting] a dual channel system of worker representation. Neither did the state find any reason to encourage them. The state's interest lay in industrial peace and effective joint regulation, and for those the best bet seemed to be a strong and uncluttered structure of union control. . . . Already, therefore, circumstances were favouring the single channel of employee representation.

Similar to other countries, an intense debate occurred in Britain during and immediately after World War I about how best to restore peace and

stability to industrial relations. The option endorsed by the government was a two-track system with collective bargaining at the industry-occupation level and joint labour–management councils at the firm and regional levels. These new joint groups were popularly called Whitley councils (Gospel 1992). The Whitley councils were not NER because the trade unions would have vetoed creating a rival in the shops. Rather, the Whitley system extended a new tier of formal union representation to the workplace level, where to that point it had been very informal and spotty. The system did not catch on and soon atrophied. As before the war, a few British progressive employers continued with NER programs, and some others set up new ones. A famous example from this period is the John Lewis Partnership, Ltd.—a retail goods company that reorganized so that employees ("partners") received the bulk of profit and elected representatives to co-manage the company through store-level and company-level councils.

During World War II, the British government promoted establishment of joint production committees in war-related industries. They became widespread but soon died out after peace returned. Up to the 1980s, as in Australia, collective bargaining dominated British employment relations and NER was not really on the industrial radar.

After the election of Thatcher in 1979 and in conjunction with the rise of neoliberalism and its attendant free-market policies, union density started to drop in Britain and has continued on a gradual but cumulatively significant downward course to the present time (in 2012, 26 percent overall, 14 percent private sector). Collective bargaining also became more decentralized (Simms and Charlwood 2010). As unions lost membership and clout, the imperative of organizational survival made them more receptive (or acquiescent) to employer initiatives that created complementary NER bodies in a form of dual channel voice. Recall, for example, that Figure 1.1 shows that only 5 percent of British workplaces in 2004 had union-only voice.

Union decline in Britain was also matched by the rise of modern HRM and participative work practices (Gospel 2014). British companies in the postwar period had, as a general rule, lagged behind in globally competitive management practices. After the 1980s, they began a major effort to upgrade and innovate. A major area of transformation was in the practice of employee management, including adoption of high-performance/high-involvement practices imported from America and Japan. Evidence from the Workplace Employment Relations Surveys (WERS) in Britain indicates a mixed picture on this front (Brown, Bryson, Forth, and Whitfield 2009). On one hand, over a twenty-year period, British companies have upgraded their personnel/HRM functions, introduced a variety of HPWS-associated work practices (broader jobs, cross-functional training, pay for performance), and reduced the level of discontent and conflict at work. On the other, change in all these areas is modest and often piecemeal, and relatively few British workplaces match the stereotypical HPWS.

Another factor that influences NER adoption is change in the legal environment regulating employee representation. Since the 1980s, the British IR system has transitioned from "collective laissez-faire" in which workplace regulation was largely done through a voluntaristic system of collective bargaining to a more regulated and juridified system in which an expanded web of labour law establishes a variety of minimum standards and mandated procedures. Compared to other European nations, however, the British employment system still fits what Hall and Soskice (2001) call a liberal market economy. Interestingly, the one legislative change that most affects NER came from continental Europe. In 2004, Britain adopted a modified version of the European Union's Information and Consultation Directive. The directive mandates periodic information sharing and consultation with employees (if a minimum number of employees so request) in firms having fifty or more employees.

Data from WERS, as earlier depicted in Figure 1.1, reveal a heterogeneous range of voice options in British workplaces. The overall trend is a significant decline in union-only voice, a marked increase in forms of direct participation (team briefings town hall meetings), and modest increase in non-union representative voice. Based on the latest data from the 2011 WERS, Dobbins and Dundon (2014) report that 75 percent of British workplaces have no form of employee representation (union or non-union), NER density has increased among larger private-sector workplaces from 6 percent in 2004 to 13 percent in 2011, but nonetheless overall NER remains a small presence—7 percent of all workplaces in 2011. The most common issues these NER groups dealt with (ranked in descending order of frequency) are discipline and grievance, health and safety, rates of pay, pension entitlements, and staffing levels. Dobbins and Dundon conclude from a survey of the literature that NER in the British context has not been a major contributor to union decline. They also conclude that NER has failed to spread more widely in Britain because many companies take a short-run perspective on labour that precludes the long-term employee investment and mutual gain commitment necessary for JCCs and other higher-level forms of NER to payoff.

United States

As far as can be determined, a short pamphlet by Bayles (1886) is the first written discussion in the United States of the structure and advantages of a non-union shop committee arrangement. Perhaps a dozen shop committees, also sometimes referred to as works councils, were established by the 1910s. Due to proselytizing of John Leitch, a self-billed evangelizer for industrial democracy, several "plans of industrial democracy," modelled on the bicameral structure of the U.S. Congress, were adopted prior to World War I (Leitch 1919). The best-known NER plan of that era, however, was the Rockefeller employee representation plan at the strife-torn Colorado Fuel and Iron Company (Rees 2010).

NER has experienced a distinctly up-and-down life in the United States. During World War I and its immediate aftermath, more than 200 works councils and employee representation plans (ERPs) were established (Kaufman 2000). After becoming disillusioned that these non-union bodies would serve as a springboard for outside organization, the trade unions became bitter critics of NER. NER reached its peak of density and influence in the 1920s, when ERPs and consultative committees—centred in progressive but avowedly non-union welfare capitalist companies—spread to as many as 800 plants and covered more than one million workers. The welfare capitalism movement then went bust in the Great Depression of the 1930s and NER plans were widely discredited as employers abandoned consultation and mutual gain and shifted to the low road of wage cuts, mass layoffs, and work intensification. The pro-labour policies of Roosevelt's New Deal spurred union organizing and led to a strike wave and growing radicalization of employer–employee relations. To stabilize the system and promote unions for purposes of both economic recovery and industrial democracy, the National Labor Relations Act (NLRA) was enacted in 1935. It not only protected and encouraged collective bargaining but, at the insistence of the trade union movement and allies, the NLRA also placed a near-complete ban on all forms of NER that in any way involve joint dealing between managers and one or more employee representatives over a term or condition of employment (LeRoy 2000). Almost all ERPs and similar structures were forced to disband, transform into independent enterprise unions, or go underground.

The ban on "company unions" remains in place to the present day, thus severely limiting NER in the United States. Exceptions include NER when it deals with subjects unrelated to terms and conditions of employment, such as production, quality, or customer service, or when an employee committee or group completely assumes managerial decision making, thus obviating "joint dealing," such as when a self-managed work team makes a redundancy decision and reports it to management. The other significant exception is for the narrow range of companies outside the coverage of the NLRA. Principally included here are transportation companies, such as airlines and railroads, covered under the Railway Labour Act (RLA, 1926). The RLA follows more closely Canadian labour law and bars NER only when it interferes with workers' organizing rights or shifts into a vehicle for collective bargaining (Kaufman 2013).

As in other countries, union density in the United States has greatly declined since the early 1980s and, in 2013, was only 7 percent in the private sector. Given the bar on many forms of NER, the American employment relations system evidently has a growing and potentially quite large participation–representation gap (Freeman 2007). Of course, American employers are unconstrained when it comes to direct forms of voice and participation, and evidence indicates a thirty-year growth in various forms of employee involvement programs. The benefits of participative workplace

structures have, indeed, been given considerable emphasis in a burgeoning literature in strategic HRM and industrial relations on the high-performance work system (Wood and Wall 2007; Frost 2008), although, as earlier noted, this literature—particularly in HRM—is surprisingly opaque in differentiating between legal forms of direct involvement and illegal forms of representational involvement.

A lively debate has taken place in the American industrial relations and labour law fields over the last two to three decades regarding whether the NLRA's restriction on non-union forms of representation has harmed the country's economic performance by impeding productivity-enhancing workplace practices, such as employee involvement initiatives (LeRoy 2000; Richardson 2010). The evidence of statistical studies is that involvement and participation practices in most cases have a positive effect on firm performance. Evidence that the NLRA's restrictive bar on representational groups has had a corresponding negative effect on productivity and performance is, however, largely anecdotal and circumstantial. Part of the reason is that statistical investigation of this relationship is made difficult by the paucity of formalized types of NER in the United States, such as JCCs and JICs in other countries.

Concern has also arisen regarding whether the NLRA has harmed companies' ability to adopt other cost-effective and mutual-gain workplace practices, such as alternative dispute resolution (ADR) programs. Traditional forms of dispute resolution are the open door in non-union companies and a multi-step grievance process in union companies. The former is often ineffective in fairly representing employees' interests and resolving disputes; the latter can be quite costly, time consuming, and adversarial. ADR is a middle way between these two poles, with a formal process for resolving disputes but within a management-created system with more emphasis on mediation, joint problem solving, and non-adversarial relations (Colvin 2013). NER can be a component of an ADR system, such as when employee representatives sit on an in-house peer review or arbitration panel.

The most recent evidence on NER in the United States comes from survey evidence reported by Godard and Frege (2013). They found that 28 percent of the American workforce, or 34 percent of the non-union workforce, reports they work in an organization with a company-created system in which worker representatives meet with management; 14 percent of respondents outside unions also reported that they were represented by another type of association, such as based on occupation, race, or gender. Interestingly, when asked whether their representatives "can be counted on to stand up for workers," the proportion of respondents (51 percent) in NER structures who answered strongly yes is similar to respondents in traditional unions (54 percent); with respect to the question "representatives actively consult with workers," NER significantly outperforms unions (54 percent vs. 41 percent). A surprising result in their survey is that when respondents

with NER in the workplace were asked whether the representatives discussed wage and benefits with management (proscribed subjects under the NLRA), 42 percent said "to some extent" and 37 percent" said "to a great extent." Apparently the NLRA is less restrictive in practice than it is on paper.

OVERVIEW OF THE TWELVE CHAPTERS

Provided next is a brief overview of each of the upcoming twelve chapters. They are presented in the order given in the book with three chapters, respectively, for each country: Australia, Canada, United Kingdom, and United States.

Suncorp

Paul J. Gollan and Ying Xu present a case study of NER at one of Australia's largest financial service companies, Suncorp Group. The company has extensive operations in banking, insurance, and pension funds and has more than 16,000 employees. NER at Suncorp has evolved and grown over a twenty-five-year period as the company has gone through numerous acquisitions and mergers. Today, the NER is called the Suncorp Group Employee Council (SGEC). Unions, although active over the years in trying to organize the employees, have only a small presence among the workforce. The company has an explicit union-free policy and has adopted a high-road HRM strategy to create and maintain satisfied and loyal employees, so far relatively successfully according to survey results reported by the authors. A central component of the high-road strategy is the SGEC, in order to foster effective communication, give employees voice and influence over company policy and management decisions and surface and resolve areas of friction or discontent. Gollan and Xu report that the SGEC is one of the most advanced and formalized NERs in Australia, falling in the middle between a European works council and Anglo-American JCC. The SGEC gets a large annual budget from the company, has an executive director, administrative staff, and technical and consultant support, and provides a wide range of services to employees, thus making it more expansive than a JCC. But, unlike a statutorily created works council, the SGEC can be curtailed or eliminated at the company's discretion, is restricted from certain areas of operational and HRM decision making, such as job classifications and promotions, and lacks power beyond dialogue and lobbying to block a management initiative. The authors find that most Suncorp employees have a favourable opinion of the company and SGEC, prefer a cooperative form of voice over an adversarial style, and have disinterest in unions, partly from doubt they could make a difference.

Cochlear

Paul J. Gollan and Senia Kalfa examine the experience of NER at Australian medical manufacturer Cochlear, a world leader in electronic ear implants for people with impaired hearing. Its sales and employment have expanded considerably in the last decade, with the bulk of its 2,300 workforce located in several facilities in Sydney and Brisbane. At the beginning of the study in the mid-2000s, the terms and conditions for the Australian employees were set in an Enterprise Partnership Agreement, bargained with an independent union. In 2005, the company's management attempted to take advantage of the greater freedom provided by newly introduced workplace legislation to phase out the union and deal directly with the employees instead. Within that context, Cochlear management requested termination of the collective enterprise agreement and a shift to individual employment contracts. At the same time, the company's focus was on boosting productivity and quality by shifting to a lean manufacturing model, for which it thought successful implementation needed employee participation and buy-in. Therefore, in 2005—with consent of the union—the company created an employee consultative committee (ECC). It currently has nine employee representatives, including several people who are union members as well as shift supervisors, and meets once a month with management. During the conversion to lean manufacturing, the ECC was relatively active and given significant issues to work on; in recent years, however, the council has cut back meeting time and become more a conduit for communication and improving social conditions. Part of the reason is that both managers and employees express more comfort and sense of efficacy with personal face-to-face interaction (direct participation) for communication and problem solving than working through the council (indirect participation). The ECC continues to function, therefore, but in a relatively low-level role. In 2012, Cochlear lost a legal appeal challenging the union's right to represent the employees and, hence, it had to return to the bargaining table.

UNICO

Alison Barnes and Craig MacMillan study NER in an Australian university called UNICO. NER at this university was a direct outgrowth of new legislation introduced in 2005 by the Conservative government aimed at curtailing the power and position of unions in higher education. The legislation stated that to be eligible for government funding, universities had to allow employees to opt for individual contracts and that they had to establish an NER form for direct communication and consultation with the workforce. To comply with the NER requirement, the university and union agreed to the formation of a Consultative Employee Committee (CEC). It had elected representatives from both faculty and administrative staff ranks