The National Workers Directors Group

Democracy in the Workplace: The Case for Worker Directors

Better Enterprise Outcomes

Greater Market Equality

More Social and Political Participation

Improved Economic Performance

Economic democracy is the single biggest challenge facing the trade union movement today – in Ireland and throughout Europe.

Raising Democratic Demands

Demands for reform of corporate governance are growing. Market concentration, environmental abuses, share buy-backs , erosion of working conditions, growing inequality, loss of social trust: how can the workplace and business in general be organised in a better, more democratic manner? The National Workers Directors Group (NWDG) is putting forward two proposals in pursuit of enhance democracy:

(a) Extend worker directors to all public enterprises, non-commercial semi-state companies and semi-state agencies,

(b) Require private sector companies to provide a minimum number of board directors elected by the employees, starting with large companies.

Stakeholder democracy provides a means to implement these proposals. It treats all stakeholders in a company as equal participants in its decision-making process. The most important stakeholders are employees, shareholders, management and the State; other stakeholders include creditors, suppliers and the community.

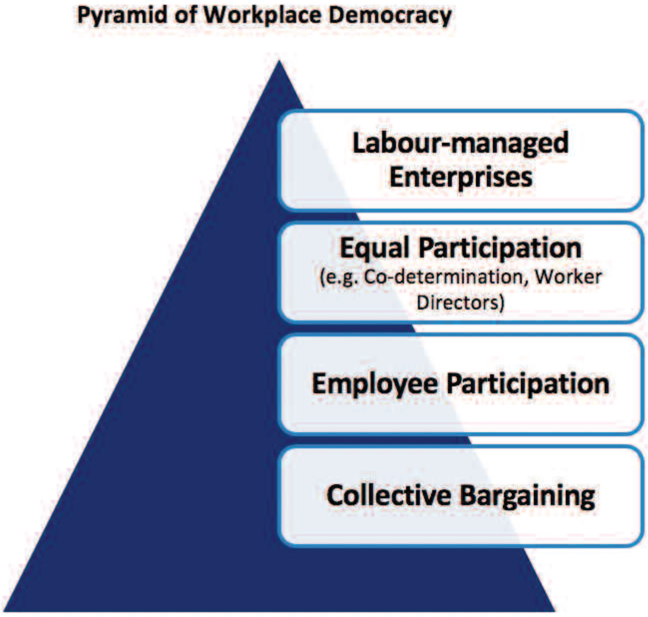
There is no 'one-size-fits-all'. There is no single delivery mechanism. Each sector, each company, will require solutions and strategies designed for their specific conditions. However, there is one indispensable foundation upon which all democratic structures are built - Collective Bargaining.

Collective bargaining

There is no workplace democracy without the right of employees to bargain collectively with their employers. This is the first rung on the workplace democracy ladder. In Ireland, uniquely among EU countries, employees do not have this right in law. Even liberal economies such as the UK and the US have statutory rights to collective bargaining.

Collective bargaining alters the power relationship between stakeholders within the workplace. Currently, employers can bargain collectively (e.g. shareholders bargain collectively with all other stakeholders through management) but in Ireland they deny this same right to employees. Only 15 percent of Irish private sector workers are covered by collective agreements.

The statutory right to collective bargaining would correct that inequality and put the main stakeholders on a more level playing pitch.



A Superior Business Model

Stakeholder democracy is a superior business model to the traditional hierarchical, top-down management structure. Studies show that collective bargaining and employee participation result in higher productivity levels in companies. For instance, the National Centre for Partnership and Performance found that firms with collective bargaining and high employee involvement in decision-making are up to 25 percent more productive than like-for-like firms with no trade union presence and low employee involvement.

National Centre for Partnership and Performance	
Workplace Characteristic	**Impact on Productivity**
Scenario 1: Non-Union Low Involvement	Productivity baseline
Scenario 2: Union Low Involvement	Productivity decreases by 15% below baseline
Scenario 3: Non-Union High Involvement	Productivity increases 11% over baseline
Scenario 4: Union High Involvement	Productivity increases 20% over baseline

A Superior Social Model

Collective bargaining has a significant social impact. For instance, in Ireland trade union membership and collective bargaining leads to a wage premium of up to 10%. Working conditions (social benefits, reduced gender pay gap, work/life balance) all show significant improvement in workplaces with collective agreements. Further, in organised workplaces wage differentials are narrowed with particular benefit to low-average income earners, which has a positive impact on the wider economy.

A Participatory Model

Employees who are members of trade unions show higher levels of political and social participation. Whether it is election turnout or community involvement, participation in one sphere – the workplace – enhances participation in others. Further, union membership and workplace engagement foster a more politically and socially informed electorate. This is the impact of democracy – it spreads out as people experience the benefits of participation.

The Central Bank stated that greater gender diversity on the boards of financial institutions (i.e. more women on the boards) has been proven to improve corporate performance. They even went so far as to threaten quotas if firms don't diversify their boards. We agree – greater diversity improves performance. It has also been proven that greater diversity of employees on the boards and in the management of firms similarly improves performance. This is why stakeholder democracy matters.

Enhanced Democracy: Worker Directors

While there is no one model of stakeholder democracy, worker directors – or Board Level Employee Representation - are one of the more publicly visible forms of democratic organisation. Rooted in collective bargaining, worker directors are a common feature in many European countries.

Statutory Provisions for Board Level Employee Representation		
Worker Directors in Private and Public Sector	**Worker Directors in Public Sector Only**	**No Provision for Worker Directors**
Austria, Czech Republic, Denmark, Germany, Finland, France, Hungary, Luxembourg, Norway, Netherlands, Poland*, Sweden, Slovenia, Slovakia	Spain, Greece, Ireland, Portugal	Belgium, Bulgaria, Cyprus, Estonia, Italy, Lithuania, Latvia, Malta, Romania, UK
* Privatised companies only		

In the majority of countries, Worker Directors are present in both private and public sector companies (in some of these, there is a dualistic corporate governance structure with a management board and supervisory board; Ireland has a monistic structure – a single board of directors).

However, there are considerable variations in the provisions for Workers Directors. In Denmark, companies with more than 35 employees have Board Level Employee Representation; in Finland, 150; in Luxembourg, 1,000. Worker Directors can make up between one-quarter and one-third of the board, while the Worker directors can be elected by all employees or the relevant Works Council.

Ireland has only very limited provision for Worker directors. They are restricted to some, but not all, public enterprises. Private sector companies are not required to have worker directors.

'Nobody nowadays regards the operation of an important industrial undertaking as being the exclusive private concern of its owners. Rather, each such undertaking is looked upon as a national asset contributing to the country's economic and social advancement . . .'

Sean Lemass (1957)

The Impact of Worker Directors on Firm Performance

There is some dispute over the impact of worker directors on company performance. Numerous studies have attempted to capture the benefit at enterprise level. Much will depend on the model of representation and the industrial, business and social culture of the country in question. However, a survey of the literature suggests that of 28 studies, only seven showed negative results (and not all these impact on productivity).

Another survey stated that 'taken collectively, research provides fairly conclusive evidence on the main effects of employee involvement . . . there is consistent evidence from studies using a wide range of methodologies that high involvement work practices can significantly and considerably enhance [enterprise] performance'.

Studies point to the complexity in measuring firm performance resulting from enhanced democratic corporate governance. The issues involved concern not only participation in a company's organisational structures, but control rights (the degree to which employees can exert control over decisions as opposed to merely 'being heard') and return rights (the right to benefit from increased productivity and profitability).

Nonetheless, taking national factors into account there is a considerable body of work that shows the enterprise and economic benefits of enhanced workplace democracy, including worker directors.

Worker Directors in Ireland

In Ireland, worker directors are elected to the boards of public enterprises (commercial semi-states) listed by the 1977 and 1988 Workers Participation Acts, along with ad hoc legislative provisions for other public bodies. There are also provisions for sub-board information and consultation arrangements in public bodies. These only apply to companies and bodies in public ownership. There has been a reduction in worker directors given the privatisation of many public enterprises since this legislation. Further, there are newly-established public enterprises (e.g. Irish Water, Ervia) and significant public agencies (Health Services Executive) that do not have worker directors.

Worker-directors face a number of challenges. First, on many boards, there is only one worker-director which means that they can be easily isolated on the board. Second, companies and bodies can interpret fiduciary responsibility to prevent worker directors from consulting with employees, which undermines stakeholder participation and company performance.

There is no statutory requirement for worker directors on the boards of private sector companies.

If there is a relationship between enhanced democracy, including worker directors, and productivity, then Ireland would benefit significantly from a radical extension of democracy in both the public and private sectors. Productivity in the Irish domestic sector has stagnated and even fallen over the last decade. Increased stakeholder democracy could improve this performance, producing higher growth and wages.

Workers have an interest in the long-term success of their company; their participation would encourage boards to take a long-term approach to decision-making. Worker board representation would bring people with a very different range of backgrounds and skills into the boardroom, which would help challenge 'groupthink'. TUC, 'All Aboard: Making worker representation on company boards a reality

Cultural Struggle

Stakeholder democracy first presents itself as a cultural struggle, or a battle of ideas. Public opinion must first be won over before political and legislative majorities can be constructed.

In this respect, there are already indications that a significant number of people support enhanced workplace democracy. In the US, 53 percent support the election of worker directors on to boards of large companies with only 22 percent opposing. In the UK, 54 percent support reserving a third of the seats on company boards to workers with only 21 percent opposing. Given this, it is likely that the majority of people in Ireland would feel the same way.

Stakeholder democracy can be presented as a rights-based demand, based on individual human rights or on democratic imperatives. However, any rights-based argument will have to convince the debate that it is a superior economic and business model. Without that, rights-based arguments can be marginalised as an abstraction, or dealt with in only a superficial manner.

Therefore, while all arguments must be utilised, a key battleground will be the instrumental benefits – that is, the specific benefits stakeholder democracy brings to the economy, society and the firm. In doing this, we must reframe the very idea and practice of the company.

Social Space

It is widely held that shareholders own the company. However, this is incorrect. Legal and business theory, along with judicial rulings, assert that shareholders do not own the company in which they have shares. According to the UK Court of Appeals:

' . . . shareholders are not, in the eyes of the law, part owners of the company.'

The company is better understood as 'an aggregation of people bound together by a complex web of contractual relationships' – underpinned by legislative protection.

We must reframe the company as a 'social space' where stakeholders combine in a co-operative effort to produce goods or services. This space is not owned but it is controlled. This control is politically constructed. Limited liability, fiduciary duties, election of boards of directors, the rights and responsibilities of the particular stakeholders – these are all laid down in law and can be changed in law. What is constructed can be reconstructed.

This is not a mere abstraction. Using this framwork, we can shift the debate to whether control by certain stakeholders at the expense of others is in the best interests of the company; or whether the exercise of that control in certain circumstances benefits the company.

Take the example of employees who take industrial action over the right to bargain collectively. The trope is familiar: workers strike against the company; management defends company interests. However, if collective bargaining, worker directors and enhanced workplace democracy lead to higher productivity, then management is acting against the objective interests of the company. They may be acting for self-interested reasons in defence of their status or working through their ideological orientation or trapped in managerial inertia. Loss of revenue, brand quality and productivity may be the outcome of the management's negative decision; whereas accepting workers' rights could lead to a better, alternative outcome. Industrial action in pursuit of stakeholder justice – within the context of firm performance - can tell a different story.

'If I own an object I can use it, or not use it, sell it, rent it, give it to others, throw it away and appeal to the police if a thief misappropriates it . . . But shares give their holders no right of possession and no right of use. If shareholders go to the company premises, they will more likely than not be turned away. They have no more right than other customers to the services of the business they "own". The company's actions are not their responsibility, and corporate assets cannot be used to satisfy their debts. Shareholders do not have the right to manage the company in which they hold an interest, and even their right to appoint the people who do is largely theoretical.'

John Kay, Financial Times

Opening the Door

Arguments for enhanced democracy in the workplace can open the door to a larger democratic discourse in the public debate. From collective bargaining to high-performance employee participation, worker directors and co-determination, employee shareholding and labour-managed enterprises, the range of forms shows how flexible democracy in the workplace can be, applying different models appropriately.

Stakeholder democracy extends outwards into traditional public policy and enterprise development. Grant-aiding of enterprises could be made contingent on enhanced democracy in the workplace while municipal public enterprises could provide greater economic accountability at local level (especially where workers and the community are involved in the management of the enterprise). Financial transparency of companies can provide another layer of democracy and accountability while democratic initiatives at local level (such as re-municipalisation, and the Port Allegre participatory democracy experiment) can provide concrete examples of the wealth-enhancing and participatory character of greater economic democracy.

Re-appropriating Democracy

The trade union movement needs to re-appropriate the language of democracy. Many arguments used against economic democracy are the same as were used historically against the spread of political democracy (e.g. too bureaucratic, people don't have the expertise, the issues are too complex, democracy takes too long, etc.).

By reframing the arguments in a democratic language, showing the benefits of greater worker participation, we can capture the 'common sense' ground and present the trade unions as they truly are – agencies of working people. And given its visibility, worker directors should be a key demand in contesting this ground.

The National Workers Directors Group makes two demands to be pursued by the trade union movement:

1. Campaign to extend worker directors to all public enterprises, non-commercial semi-state companies and semi-state agencies, ensuring one-third of the board (or at least two places) are reserved for worker directors with a comprehensive protocol to allow worker directors to communicate directly with employees on board matters

2. Campaign to require companies to have a minimum of one-third board directors elected by the employees, starting with large companies.

If the goal is to improve productivity and efficiency in the public sector, then the extension of worker directors to all state bodies is a crucial element. This should not be undermined by isolating individual worker directors or preventing them from engaging directly with employees. This only prevents the accumulated knowledge capital that employees possess from exerting an optimal benefit on the company or agency.

When extended to the private sector there are other challenges. There are over 500 large companies (i.e. companies employing 250 or more) in the market economy in Ireland, with more large companies operating in non-market sectors such as health, education, and arts and recreation. Ireland has a very large proportion of multi-national companies and companies which are dedicated to the domestic economy but incorporated in other jurisdictions (in many cases to hide their financial accounts and reduce accountability). Particular strategies will have to be devised in order to apply the policy of worker directors to global companies even as trade unionists, in the first instance, campaign on the basic principle.

This is not intended to replace or subordinate other democratic demands. It is to complement the range of arguments in the cultural debate and assist in advancing the wider agenda of the trade union movement. For instance, the demand for worker directors raises questions over the role of collective bargaining, just as the demand for collective bargaining raises the issue of extending democracy in corporate governance.

Democracy should be the key demand for trade unionists and all progressives. In this way, we can lead the debate in civil society, building coalitions, providing support for other democratic initiatives and advancing on a number of fronts.

In short, democracy is nothing less than a re-thinking of how power in the economy and companies can be redistributed. This is the biggest challenge facing the trade union movement today.

In the US, 53 percent support the election of worker directors on to boards of large companies with only 22 percent opposing. Even among Republicans, nearly as many support worker directors as oppose them.

In the UK, 54 percent support reserving a third of the space on company boards to workers with only 21 percent opposing.

Given this, it is likely that the majority of people in Ireland feel the same way.

[i]Share buy-back: where a company purchases its own shares from the marketplace. This drives up share value. The company spends money to drive up the share prices, benefiting not only shareholders but senior management with share options. It comes at the expense of company investment and employees' wages and working conditions.

[ii]Stakeholder democracy is synonymous with workplace and economic democracy, though distinct. In this report we will use all three concepts interchangeably.

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[iv]'The Union Wage Effect and Ability Bias: Evidence from Ireland', Frank Walsh , University College Dublin

[v]The American Prospect: How Unions Boost Democratic Participation, September 16, 2015

[vi]'How Labor Unions Increase Political Knowledge: Evidence from the United States', David McDonald, Political Behaviour, April 29, 2019

[vii]'Central Bank threatens gender quotas if banks fail to boost diversity', Irish Independent, August 16, 2018

[viii]Irish Management, September/October 1957

[ix]Board-level employee representation rights in Europe Facts and trends, European Trade Union Institute, Report 121

[x]Employee Involvement, Consolation, and Discretion, Institute for Employment Studies, Report 427

[xi]The Labour Services Act 1987 provided for the appointment of worker directors to the board of FÁS and the Court Service Act 1998 provided for worker directors in the Court Service.

[xii]Productivity Chartpack, Department of Finance, 2018: https://assets.gov.ie/4007/071218113619-0260299e24a04bd890da3abcdfbaee12.pdf

[xiii]Civic Analytics, quoted in 'Workers don't have much say in corporations. Why not give them seats on the board?', Vox, April 6, 2018

[xiv]Labour economic policies are popular, so why aren't Labour?, YouGov, November 12, 2019

[xv]Short vs. Treasury Commissioners, UK Court of Appeal, 1948

[xvi]Stephen Bainbridge, Who Owns the Corporation:
http://www.professorbainbridge.com/professorbainbridgecom/2006/01/who-owns-the-corporation.html

[xvii]'Shareholders think they own the company — they are wrong', John Kay, Financial Times, November 10, 2015

[xviii]Participatory democracy in Porto Alegre, The Guardian:
https://www.theguardian.com/world/2012/sep/10/participatory-democracy-in-porto-alegre

[xix]Workers Joining Boards Can Improve Productivity, Irish Independent
https://www.independent.ie/business/world/workers-joining-boards-can-lead-to-higher-productivity-34908733.html

[xx]Worker Participation and Productivity in Labor-Managed and Participatory Capitalist Firms: A Meta-Analysis Chris Doucouliagos: https://journals.sagepub.com/doi/abs/10.1177/001979399504900104

[xxi]Board Level Employee Representation, Executive Remuneration and Firm Performance, Sigurt Vitols:
http://www.efesonline.org/Database%20of%20employee%20ownership/Users/2010_ceo_pay_paper.pdf

[xxii]'The Future of Employees' Board-Level Representation in The European Union', Katalin Bagdi, 2nd Global Conference on Business, Economics, Management and Tourism, October, 2014, Prague, Czech Republic

'Giving board seats to employees familiar with factory floors can help businesses beat the market, sometimes by huge margins. That's the finding in a Bloomberg review of countries where worker-directors are common, but not required by law. Indexes of companies with employees on their boards in Norway, Sweden and Austria each beat benchmark indexes in those nations by 30pc or more since July 2011.'

' . . . worker ownership, and worker participation in decision making are all positively associated with productivity.'

'[Worker Directors are] associated with less frequent use of stock options and lower total CEO remuneration. Furthermore,] worker directors do] not have a negative impact on operating performance (specifically on return on assets or ROA) or on stock market valuation.'

' . . . the global financial and economic crisis proved, that those companies that strengthened participatory rights on board level mitigated the effects of the crisis, avoided redundancies and became profitable.'

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