HOT TOPIC
"Future Work

WHAT WORKS (AND DOES NOT WORK) IN INDUSTRIAL RELATIONS SYSTEM CHANGE TO PROMOTE EFFECTIVE WORKPLACE PARTICIPATION? FRANCE, 1981 AND THEREAFTER.

Jacques ROJOT
University of Paris 1 - Panthéon-Sorbonne

First, a few comments on the structural features of the French system of industrial relations that are particularly relevant for the interpretation of the recent developments will be outlined. Then the state of affairs before the wave of statutes of the early 1980,s will be presented. Finally, after a brief outline of the 1980's statutory changes, conclusions will be drawn from the failure of this legislative intervention to modify deeply enough the institutional structure in order to promote unionization and workforce participation.

STRUCTURAL FEATURES OF THE FRENCH SYSTEM OF INDUSTRIAL RELATIONS

At a very general level, it should be underlined that, on the one hand, France is not a country of Common Law, but of written law. Therefore, statutes are of extreme importance compared to the secondary role of judge made law (which nevertheless exists). On the other hand, it is a country of industrial, but plural unionism, therefore several national union Federations operate competitively across all economic sectors, each one with the goal of representing potentially all wage-earners in the country. Finally, managerial rights have been traditionally consistently upheld by the courts, although with some important, but very recent, encroachments, and there is no such system such as co-determination, in the German sense, even though a widespread mechanism of employee representation exists parallell to unions

More specifically a better understanding of the present situation is easier when accounting for some national specificities:

First, contrary to the US system, where the collective agreement plays an essential role, the foremost concept in French labor Law is the individual contract of employment between the individual employee and the employer. Dismissals and resignations, for instance, are to be analyzed in terms of the termination of this contract. It may exist under the form of a written document spelling out specific provisions. However, it need not be so. It is legally assumed to be present and binding as soon as an employment relationship (i.e. the performance of subordinate labor) is materialized and it has then an implicit automatic compulsory content: i.e. all existing statutory labor law, administrative regulations and customs as it may apply to the relationship. Collective agreements, if they exist, are temporarily, for their duration, embodied in the individual contract of employment in the same automatic way. Additions by the will of the parties to the implicit automatic content are not necessary, but are always possible as long as they obey public order and

"good mores" and either that they further improve the lot of the employee or, otherwise, that their potential use is expressly permitted by specific statutes.

Second, again in strong contrast to the US system, there is no concept of exclusive jurisdiction. This has several consequences. On the one hand, local unions belonging to different competing national union Federations (centres) can be, and are, represented on the shop floor. On the other hand, there is no bargaining unit, and no need for a definition of it. Because of the role of the individual contract of employment, since a collective agreement is signed, at whatever level (national interindustry, industry wide, regional, local, enterprise or plant level), by whichever of the competing unions is present at that level, its terms and conditions become, for its duration, part of the contracts of employment of all the employees concerned; that is of all employees of members of the employer association, or of the single employer having signed the agreement. Therefore the bargaining unit is automatically defined by the scope of the party representing the employer and all his employees, union members or not, even those belonging to an union having refused to sign the agreement, are covered by its provisions.

Third, and again unlike the US, France is not a Federal country, but on the contrary a very centralized one, where the central Government plays an extremely important role in all sectors of the economic and social life. This still holds true, the recent efforts towards decentralization notwithstanding. Therefore, many areas, which in the US belong to the realm of collective bargaining, or, failing union representation, to managerial policies, are regulated by statutes and administrative rules, such as, not only minimum wages, but also overtime pay, night shift pay, working time, vacations and holidays, rights to training, shop rules, temporary work and part-time work conditions, etc. This regulation provides a minimum of substantive coverage for all employees above which collective agreements at different levels can only successively build and add to the advantage of the employees, except for minor cases and issues for which, and only since 1983, statutes expressly provide to the contrary ("derogatory" provisions). Besides, the government plays a role of stimulation of the parties, sometimes open and direct, some time implicitly.

Fourth, and again unlike the USA, the French industrial relations system does not know arbitration, but includes an original system of Labour Courts, without professional judges, staffed paritarily by elected representatives of labor and employers which are part of the judicial system. Its access is open to any employee dissatisfied with the application of his contract of employment, although in practice it mainly deals with the cases of employees already dismissed. To sue in such courts is inexpensive and does not require the help of lawyers. Decisions are reasonably expedient and under a certain amount of demanded damages are final; above it, the system branches into the regular Courts of Appeals.

Finally, other specificities also play a role but are of less direct importance here and should only be very briefly recalled: Union security provisions are unlawful, even the check-off. Lock-outs are

generally unlawful as is all positive, as well as negative, discrimination towards union members, and the right to strike of the individual employees is constitutionnally protected, and therefore cannot be disowned. Thus, a peace obligation could not be enforceable at law against strikers who have not called the strike if, by chance, it would be contained in a collective agreement. However, this protection does not apply to unlawful strikes. Finally, an extensive system of social security covers, at a minimum but significant level, health, unemployment, survivors and old-age risks.

THE STATE OF FRENCH INDUSTRIAL RELATIONS BEFORE THE LAWS OF THE EARLY 1980'S

The system of French industrial relations was constituted slowly over the years since the mid XIXth Century but found its present features after the mid 1930's. It would be pointless to go in detail over its history but it should be kept in mind that it explains much of what is taking place today, therefore occasional historical references will be mentioned when absolutely necessary. The main characteristics at the outset of the 1980's were the following:

Weak labor market organizations with a "radical" ideologically

Both employers organizations and unions are traditionaly much weaker than most of their European counterparts, and both employers and organized labor developed radical ideologies.

The weakness of employers organizations is attributable (Sellier, 1984) to an early extreme polarization of a segmented population of enterprises, between a few large or very large firms, whose influence was not powerful enough in the private sector to impose a rationalization of employers policies or they were unwilling to try do so, and a huge mass of very small, small and middle size independant enterprises, often family owned or owner managed. This structure brought the individual employers to erect as a dogma the absolute respect of the independance of the enterprise and of the individualism of the entrepreneur.

This factor played both towards an opposition to belonging to strong employers associations to which managerial rights were to be delegated, and when that was exceptionnally the case to expect and demand of them an extreme accent on managerial rights, but also towards a built-in opposition to the presence of labor unions whose simple existence was a threat and a limitation to the independance and the individualism of the employer.

The development of a sizable sector of large and medium size enterprises as well as of a large public sector managed independantly and not by a class of employers-owners did not substantially change this attitude, for, as it has been remarked (Greffyié de Bellecombe, 1969) most of the present day salaried managers come from the same social background and went through the same training in the same institutions as their forebears.

France is however still indeed a country of majoritarily small enterprises; 49% of all enterprises have no employee and are individual enterprises, 24.1% employ between 1 and 9 employees and 28.6% between 10 and 49 employees. In other words, 9 enterprises out of 10 employ less than 50 employees and one employee out of two works in such an enterprise.

The weakness of the Labor movement is also a permanent feature of the system.. Its roots are in history (Sellier, 1984) and are originally attributable to a slow development by successive strata of a non-homogeneous working class issuing from different socio-economic backgrounds, concommitant to a slow, geographically little concentrated, and late industrialization of the country, compared with its European neighbours. This was conducive to a weak, ideologically divided labor movement, with an emphasis on political action (automatically radical in a time of conservative rule) and reliance on an already powerful state (if only to be conquerred at first, then for intervention) for many of its economic aims. France never developed a labor party but the labor movement remains ideologically divided along the lines of its historical components: marxist, anarcho-syndicalist, socialist-revolutionnary, socialist-reformist. Even though the leadership of two major union centers has moved towards more moderate attitudes since the war, it is still wavering, and at grass roots levels very different attitudes and strategies prevail, often along the old lines, sometimes along very pragmatic positions. All the main union ideologies nevertheless include a more or less radical upheaveal of the present economic and social system.

The relationship between the State and the unions has been an uneasy one. Historically the unions' ideology was majoritarily bent to overthrow the present form of government and, at the same time, their tactics were putting most of their means of action towards pressure on the State for the enactement of statutes favorable to the employees or the labor movement. On the other hand, in the absence of strong labor market organisations and with the consequent need for government intervention on the labor market, the unions were unavoidably tools for the government action. The result, partly, was the institutionalization to some extent of a nevertheless radical labor movement. As a consequence, the "representative" unions that are for the most part affiliated with the major Federations enjoy specific roles and privileges at several levels: for instance seats in the National Economic and Social Council, as well as in many national and regional advisory bodies, representation (with the employers) in many official bodies, governong boards and institutions (welfare, training, etc...), State funds for training purposes, etc.

A similar part played by the main employers organization allowed, early after the war, a new form of collective bargaining to develop, not foreseen by the law. Under the stimulus of Government, the unions and employers representatives meeting at the top center level passed interindustry, economy wide agreements on subjects of interest to all employees. It started with additional retirement benefits in the late 1940's and went on to include important matters such as the mandatory contribution for training at enterprise level. Very often, these agreements were later enacted into

law, or conversely, the Governement had an act voted in Parliament, empty of substantive content, but inviting the "social partners" to fill it inby negotiations at that level, or sometimes at sectoral level. This reflect well the institutionalized role of the parties in the elaboration of social policy and the weight of the central government.

It is to be noted that the French rate of unionization has always been low and has never been stable but has alternated betwen peaks (1920, 1936, 1946) and periods of decrease. The situation between 1960 and the early 1970's with a relatively stable rate of unionization, down from the peak of 1946, but globally estimated between 20 and 23 % of the wage earners, was more an exception than a rule in that respect.

However, since that period, the rate of unionization has markedly decreased. Even though there is no reliable and proven measure generally agreed upon, the general consensus, including official union sources, has been that it is consistently moving down, reaching about a low of 9% at the present time, without foreseable prospects of moving up or even stabilising at the present low rate. This decrease applies for all union Federations, although at different rates, across all sectors of the economy, including the former strongholds of public service.

Several reasons have been advanced for this state of affairs, some long-term and some with a more recent effect (Rojot, 1988): changes in the composition of the labor force, on the one hand decreasing the share of traditional skilled male blue-collar union member and activists, and on the other hand increasing the share of minority groups less attuned to unionization; shift from industry to services moving the economy away from traditional union strongholds and towards areas without working class or union tradition; increased level of education of the average wage-earner therefore more able to take care of his needs without relying on a union, psychological change towards more individually and less collectively oriented values, sociological changes away from an authoritarian model and towards a more egalitarian society, increased standard of living since the 1950's and a generalized welfare net decreasing the need for collective action towards protection of the employee, etc. After the oil and financial shocks of 1973 and 1979 additional reasons appeared, such as the inefficiency of labor unions regarding the now prevalent contitions of inflation and unemployment, their lack of concern, beyond lip service, for anybody else other than their members such as the unemployed, immigrant or marginal workers, their lack of adequate leadership and their inability to attract younger workers and finally new managerial sophistication in Human Ressources Management such as to render unions useless in the view of employees. Other quarters have added, on the one hand, the division of the labor movement and the closeness of the main union centers with the political parties of the left, socialists and communists, as well as the inability of the present leadership to adapt to the changing needs of the workers, and on the other hand the mechanical negative effect of unemployment, for the repeated massive lay-offs in different sectors after the sucessive economic slowdowns since the mid seventies have never been compensated for by

comparable level hirings when growth resumed in between, and employers' union "busting" efforts as causes for the disaffection of the employees.

All these reasons, doubtlessly, play a part in the decrease in unionization, but they were present as well among other European countries which did not experience it with such sharpness, and which, during the same period, maintained or even increased union density. Therefore, a major item, specific to France, should be added. Maybe the factors listed above provided the impulse, but they found a particularly fertile ground, which also explains the traditional low rate of unionization. Taken together, the structural features mentioned in the introduction make it such that, from an utilitarian point of view, there is absolutely no reason for an individual to join a union. He will enjoy the benefits of the statutory net of social security protection and welfare, the protection of the extensive layer of statutory labor law as well of any collective agreement which would happen to be passed and he will enjoy the same access to the labor courts for redress of his grievances anyway. However, joining will bring him only the right to pay dues and cannot bring him any additional benefit: besides, in many cases it may not enhance his prospects for promotion and advancement. There are of course non-material benefits in joining a union, but they are probably not generally attractive to the average worker and would likely tend to play positively only towards the already ideologically minded. Therefore, in France, the degree of unionization could conceivably amount to what, in other European Countries, would be the percentage of union officers, activists or militant members.

Industrial Relations based on conflict

Both the concepts of independance and individualism of the employers and the radical ideologies of the unions are interactive, reciprocally strenghtening each other. Until the mid 1980's the two main union Federations explicitly referred to their action as relating to the class struggle, a third aimed towards reformist socialism, and the employers aimed, if not to the elimination, at least to the neutralization of the unions. In fact, both actors denied, explicitly or implicitly, each other legitimacy. "In most of French private industry, genuine collective relations have scarcely been tried. One reason is that relations between employers and unions have seldom been those of the comparable power which might inspire respect, but usually those of victor and vanquished". For a large segment of the French economy, this perceptive statement of Val R. Lorwin (Lorwin, 1954) is to some extent still true. It certainly does not mean that there are no collective relations, but that collective bargaining North-American style has not successfully taken hold.

It should be added that the traditional conception of authority in France views it as absolute and not to be challenged (Rojot, 1990) in the smallest degree. This, independantly of the ideological aspects and of the historical circumstances was an additional element of conflict, the employer viewing the presence of a union as an insufferable limitation of his managerial rights and the union

representatives feeling that their lawful prerogatives were to be carried out independantly of any degree of concertation with the employer and as a challenge to his powers.

Most of collective bargaining was taking place at industry or sector level, where agreements often contained little more than the re-enactment of the statutory provisions regarding employment relationships and the establishment of minimum wage levels by grades in order to protect marginal enterprises included in the scope of the agreements. This not to say that enterprise level agreements were totally absent. indeed some were particularly innovative, esspecially after that the law on collective bargaining was amended in 1971 in order to facilitate them, but they were very small in number.

Almost no real bargaining took place at the levels of the enterprise or the undertaking. This to some extent fitted the strategies of the parties: the employers were reluctant to acknowledge the existence of the union on the shop floor. There was to be no intermediary or "stranger" between the employer and his workforce and nobody was to challenge managerial authorithy within its legal boundaries. Maybe the union had its place, but <u>at</u> its place (meaning outside the enterprise and playing in French on the meaning of the words "a" and "à", sounding the same). From the union standpoint. the enterprises certainly were to be made "strongholds of the working class" and all action and combat would start from the enterprise, the normal locus of the working-class, to be successively added to and globalized at higher levels. However. they were places for building strength. eventually for imposing the satisfaction of non negotiable demands, not for bargaining. One may recall a union leader referring in the 1970's to the signature of a plant agreement by his organization as "signature of combat".

This was generally the case for practical as well as for theoretical reasons. In practice the union was weak and often divided at that level. In theory, its goals were the upheaveal of the present system of production as well as a systematic opposition to the employer and it considered with reticence its implication in participation. even through negotiation. in establishing the organization of production. shop rules. etc. Legally, the unions as such had no legal foothold and rights in the enterprises until an Act of December 1968. even though. outside the enterprise they were the "social partners" empowered to sign collective agreements. Of course. the above represents the general model. and in many cases they were present nevertheless on the shop-floor, through unrecognized union sections and through their members within the representative institutions to be discussed below. and in some cases enjoyed considerable power. In those cases. either enterprise agreements were exceptionnaly passed (such as in the Renault Plants) or an informal agreement enforced union sanctioned customs influencing the organization of work (Morel. 1981).

It should. however. interestingly be noted that the scope of that conflict was restricted: It included wages and conditions as well as benefits and union rights. but scarcely anything else. Other areas.

which in other industrial relations systems were hotly debated and negotiated were falling here into "zones of indifference".

The unions, opposed by dogma to anything that could include them, as well as the employees as members of the "working class", within the goals of the business or the employer did not contest managerial rights in the running of the business, and particularly in organization of work and production methods and left management a free hand. Employers had no interest in acquiring the cooperation and tapping the creativity and innovativeness of employees, beyond the simple execution of prescribed work and maintaining discipline. By tacit common agreement, all forms of participation were jointly opposed by employers and unions. A proposal for "the reform of the enterprise" including "co-monotoring" of management was rejected by both sides and the introduction of a compulsory modarate amount of profit sharing in 1967 was also the object of joint derogatory comments (Rojot, 1993).

An intricate system of employee representation.

The present situation results from the cumulative addition of successive layers of institutions, without much regards to ordering them, given that they were voted by Parliament as compromises between opposite factions of interests. It reflects a complex and somewhat confused picture.

Even though unionism has been lawful "de facto" since 1864 and "de jure" since 1884 and the first Act on collective bargaining dates back to 1919, for long no mechanism of employee representation existed, whether through unions or otherwise, at the enterprise level. The flurry of Acts following the social upheaval of June 1936 and the rise to power of the Government of the "popular front" included the first institution to that end, the "employee delegates". Elected by all the employees in enterprises employing 10 employees or more, they had for their role presenting the employer with individual grievances of their fellow employees regarding the application of labor law and collective agreements.

When the next step came, it was embedded in the spirit following the return of freedom to the country, at the end of the German occupation, when high hopes for the construction of a new society issuing from the "resistance" were prevalent. "Enterprises committee", or works councils were created in enterprises or undertakings within multi-site enterprises employing more than 50 employees. They were set up in a spirit of cooperation between labor and management, were granted mostly consultation and information rights, and were composed of the employer, as President, and of elected employee representatives. The Ordinance of 1945 which set them up was overhauled several times, notably in 1946 and 1966, but in a way that remained faithful to those initial ideas, although the scope of information and consultation rights, notably in economic areas, was extended and union representatives were allowed to attend the meetings without a deliberative voice. It is to be noted that later, a specialized commission within the committee, which could avail

itself of the creation of such commissions, some of which were mandatory in enterprises over a certain size, evolved into a separate Safety and Health Committee, which later again became a Safety, Health and Working Conditions Committee.

Several later indirect inroads were made by the unions in the employee representation system. Union representatives were allowed to assist, at their request the personnel delegates when they met with the employer. Both the delegates and the work council members, who were elected with a two-ballot system, had to be candidates sponsored by the unions at the first ballot, free candidacies being possible only if no majority was reached and a second ballot occurred.

Finally, an Act of December 27, 1968, in the wake of the May 1968 events, instituted the official union presence in enterprises over 50 employees, represented by a union delegate, with a role initially restricted to the management of union affairs, and the posibility to sign collective agreements with the employer in the name of the union which had appointed him..

Additional Acts increased the rights to information and consultation of work council members in matters such as continuing education (financed by a wage-based mandatory contribution at entreprise level), social balance sheet, compulsory profit-sharing (in a limited amount), gain-sharing and the like. However, no widespread reform of the institution occurred, even though it was widely discussed.

Available statistics before the legislative wave of the early 1980's give the following picture: In 1979, 40.5% of the number of undertakings (over 10 employees) that could have personnel delegates did have one, with wide differences between industries and a marked size effect, from about 18% in sites between 10 and 25 employees to over 90% in sites employing above 1000 employees. After a slow start, the works councils, whose percentage of existing ones over the number that could exist (undertakings above 50 employees) was estimated to be 35% in the mid-1960's, had plateaued at 50% at the end of the decade and was given a boost, up to about 80 %, attributable in our view to the law on compulsory profit sharing of 1967 which allowed mandatory, under threat of tax penalties, profit-sharing agreements to be signed within the works councils, instead of with a union, a solution much preferred by the employers. The same size and industry effects applied

Finally, the percentage of existing union delegates (in undertakings employing 10 employees and more) was stabilized at 60%. It must be noted that unlike the other kinds of employee representatives, union delegates do not require election but are simply appointed by a letter from the local union.

It was also generally agreed that, in most cases, the effective role of the works councils was in fact limited to the management of welfare activities, financed by the employer but run autonomously.

The economic information and consultation roles had slowly fallen either into disuse or were only formally accomplished in ordeer to comply with the law.

The reasons for this are easily understandable, for the employee representative institutions instead of remaining the institutions of cooperation that were planned initially quickly became stakes between union and management. Although, in the rare cases where powerful plant unions were present they became arenas of conflict, in most cases the employer aimed to confine the union delegates to union related activities or, more simply, in the absence of a union played down the role of the institution.

THE LEGISLATIVE WAVE OF THE 1980's

Four objectives were given to the policies to be implemented by the new socialist government (Auroux, 1981): (1) reinstatement of the collective of wage earners in the enterprise, supposedly dweakened by the use of atypical work; (2) reisntatement and the enlargement of the rights of the wage-earners; (3) strenghtening of the employee representation system and its control over the management; and (4) the renewal of collective bargaining. The first is of no interest here, nor the part of the second one limiting managerial rights in some areas (the establishment of shop rules notably). For the rest, several Acts passed mostly in 1982 and 1983 implemented some important legislative changes: an individual right to express themselves, independantly of the union as well as of the employer, was given to the employees, to be implemented by collective agreements. A yearly duty to bargain was imposed on the employers, at both sector and enterprise levels. Provisions were enacted to ease the implementation of employee representative mechanisms, as well as enlarging their rights of consultation on economic matters. New representative institutions were created both at group or holding level and in the case of several small enterprises operating on the same site (as for instance in the construction industry)

More than a decade later, the global intent of these provisions has not really been effective. They have failed to reduce the decline in the rate of unionization, which was one of their indirect goals. As for the rest of their aims, the available figures and data give a spotty picture. Even though some moderate apparent effects are notable, the actual content of these effects are more doubtful.

The fall in the rate of union organization has reached the point where it constitutes a major issue. Even though the institutionnal role of the unions as described above persists, independantly of their membership and therefore not affecting their capacity to operate at national level, at enterprise level the crisis has reached such a point that the most progressive employers and the most enlighted managers of large companies are worried by the consequent lack of valid "partners". A few companies, for instance have introduced the "union bank check" where employees are given, in addition to their wage and which therefore does not constitutes a check-off and is lawful, a "check', that cannot be cashed and is endorsable only to a union or a charity. The public sector, once the

most strongly unionized sector of French labor, is losing members in the same rate, if not to the same amount, as other sectors. The efforts of the leadership of most progressive unions remain without much effect at the grass roots. Available data tend to demonstrate that union members who leave a union do not shift to another one but altogether quit the labor movement. M each otherembership is the lowest among the youth.

Employee representation mechanisms initially showed some progresses in some areas, but the general picture now has not really improved. First, the simple size effect makes it such that more than one employee out of two works in an enterprise below 50 employees (52.7% of the labor force), and is therefore without a works council. Most of these employees do not even have the benefit of the limited representative rights performed by the personnel delegates and have no representation at all. These are not compulsory in enterprises below 10 employees (3 million enterprises employing 24.1% of the labor force), and in the enterprises in that category where they should exist (between 10 and 49 employees), most do not. For that size of entreprises the statistics from the Ministry show that only 36% of the enterprises which should have them do have them (representing 45% of the employees concerned. This figure is still twice the one before 1980, but decreasing from the peak reached immediately the Acts (38,5% of enterprises).

The global picture concerning personnel delegates shows a general decrease. The size effect noted above is persistent, but for all enterprises concerned (above 9 employees) the percentage of enterprises where the delegates do exist compared with where they should exist is down (43.3% in 1988 against 47.6% in 1985 up from 40.5% in 1979 after the boost due to the Acts).

Among enterprises that should have an enterprise committee (above 50 employees) still more than 20% do not. Again a strong size effect is present since 50% of the missing committees concern enterprises between 50 and 99 employees, and 25% enterprises between 100 and 199. characteristically, other factors point towards a decrease of interest in and influence of the committees. First, the rate of abstention in consistently increasing. From a low point of about 25% in the late 60's it now reaches 35 to 36% (depending on the even or odd year), an increase of 6 percentage points over 1981. Second, the number of members of the Councils elected on non-union lists, where either no union list has been present at the first ballot, or, if one was present it did not get the majority of the vote, is on the upswing. The percentage of these reaches now between 27 and 30% (depending on the even or odd year), up 8 percentage points since 1981. Again the same size effect is striking. Also, small "non-representative" unions not linked with the main centers, with a limited geographical or occupational scope gain 1,5 percentage point on the same period.

One of the main objectives of the Acts had been to reinforce the presence of the unions in the enterprises. To that effect, it gave the representative unions a monopoly to sign collective agreements, made yearly negotiation with them compulsory, and extended the scope of the union sections and delegates, initially limited to enterprises over 50 employees in 1968, to all enterprises.

Notwithstanding, statistics from the Ministry show that the number of union delegates, reflecting the existence of a union enterprise representation, consistently decrease over the years mirroring the decline in unionization. From 57.1% of enterprises over 50 employees (for which statistics are available) having at least one delegate (all union centers included) the figures went down to 55.1% in 1987 and 50.7% in 1989. In an even more striking way, a survey carried out in 1993 (Coffineau, 1993) shows that employers strongly underestimate the number of union delegates present in their enterprises (30%). This reflects the decreasing influence of the unions even when they are theoretically present on the shop floor.

The "right of employees to express themselves", after an initial wave of interest and a flurry of enterprise level agreements seems to have lost much of its momentum. Most agreements still standing have not been renewed and many now seem to be empty of reality (Amadieu, 1992). The same can be said for quality circles. A sign of their fate might be the fact that the national society devoted to their promotion and creation went bankrupt a few years ago.

The effort to stimulate negociation was also short lived. Formally, a quite notable effect could be seen in the suddenly rising number of agreements, both at sector and enterprise levels and some observers thought that a "dynamic" and a "learning process" of negotiation could be noted (Coffineau, 1993). Research, however (Delamotte, 1987) has demonstrated that the actual effect was extremely limited. Recent statistics from the Ministry of labor tend to confirm these findings: At sector level, many collective agreements as in the past mostly repeat for a large part the statutory provisions which are compulsory anyway. At enterprise level only one employee out of five in the labor force is covered by an enterprise level collective agreement (in addition to interindustry and sectoral level, as indicated above). As to their contents these agreements have little substance. The large majority of them (more than 55%) are either only wage settlements following and adapting increases in the minimum wage or (about 40%) working time agreements taking advantage of the legal provisions allowing the "modulation" on the duration of work over periods of several weeks. Only a very small minority of them deals in an innovative manner with original subjects such as training, organization of work, productivity and the like. Profit sharing and gain-sharing agreements, the latter markedly on the increase are accounted separately, for they obey different rules and can, for instance, be signed by the works council rather than a representative union.

All these elements added together draw a rather bleak picture of the condition of French industrial relations 10 years after the enactement of the laws aiming to overhaul the system. But it should be underlined that this represents the general background. In practice, if it is this state of affairs that reflects quite accurately the average picture, however, the case by case situation is nevertheless very diversified and there are some limited areas where innovative practices are implemented, sometimes jointly which show a marked impact and a great deal of promise. One may perhaps categorize several such types of areas. On the one hand are some small and medium entreprises where the management has felt the need to improve the conditions of industrial relations, and at the same

fulfill new expectations of the employees, but does so, together with the employees and with their agreement, outside of labor law. The cumbersome weight of the added layers of Acts is ignored. unions are absent and practices ignored by the statutes such as referendum of employees. employee involvement in selection of plant and equipment, employee councils outside of the regulations and the like. are present. (A.nadieu. 1992). Also. in many enterprises, sometimes in the same ones. but not exclusively so. since in 1986-87 the use of gain-sharing agreements (as different from compulsory profit-sharing) has ben made easier and the benefit of tax advantages extended, a wave of such agreements has surged,. mostly in small and medium enterprises. On the other hand. in large entreprises, where statistics show that all legally required employee representatives are present and the unions represented, in some sectors (there seems to be a strong sectoral effect) and in the presence of an enlightened management, some very progressive agreements have been adopted in several areas, such as union extended rights (insurance), training and qualification (automobile). advanced management of careers for semi-skilled workers (automobile and banking), and employment guarantees. Finally. in some medium-sized enterprises. in the presence of a strong union some concession bargaining has exchanged the guarantee of employment for wage concessions or new working time arrangements (introduction of night-shift, balancing the work week duration over the year and reducing overtime, etc.). Interestingly, research has shown that the strenght of unionization. as opposed to the simple presence of a union, is not totally correlated with size. Whereas the unions are absent of most small enterprises and present in most large size or giant enterprise. where it often tend also to be almost institutionnalized, seems to be strongest in some large mid-sized enterprises (200-500 employees) that present certain characteristics (La Maitre et Tchobanian. 1991): skilled but not very highly skilled type of work (excluding graduate engineers or high-technology), homogeneous community (without much presence of immigrants. unskilled youth or women. middle aged male employees. sense of belonging to a job tradition, strong identity built around a common and shared socio-economic cagetory).

CONCLUSIONS AND LESSONS TO BE DRAWN.

The world wide pressures towards increased performence of the productive system (Kochan. Katz. McKersie. 1986), the new expectations of a better educated work force and the consequent need for employee involvement and participation have not escaped France and the attention of the main decision makers. as witnessed the encouragement for "negotiated modernization" by the socialist government from 1988 on. and the earlier facilitation of gain sharing agreements by the short lived conservative government. under the socialist presidency, of 1986-1987. However, no large legislative effort has been undertaken since the one of the early 80's, the effects of which have been very limited.

Several conclusions can be drawn from this experience. First, it confirms again that social change cannot be accomplished single handedly by legislation. After almost 50 years of successive legal strenghtening, effective works councils are still not the rule, and a ten year effort of statutes aiming at strenghtening the unions has failed. This by no means signifies that statutory intervention is without effects. However, the best that it can provide is a framework where the interested parties can operate, or that they can neglect. Clearly, the successive Acts have opened a perimeter of possible action of which, in the cases outlined above, unions and management have in some instances taken advantage to produce innovative solutions. However, this is far from rule. For this to happen more often, the law is not enough. In order to enter into a dynamic process each party must find an incentive to do so, the employees to be unionized for instance, or the union and management to reach agreement. What government intervention can do most efficiently is to provide incentives as well as some catalysts. The wave of gain-sharing agreements, for instance, as well as the few innovative agreements on training (Rojot and Luttringer, 1993) occurred in the wake of legislative intervention, but where instead of edicting compulsory behavior, it provided benefits to be gained by using the mechanisms encouraged, including tax advantages to be gained or tax penalties to be avoided.

In France, generally speaking, a dual vicious circle had developed at one level between union and management reinforcing their mutual exclusion and denial of legitimacy, and at a second level within the unions. The membership of unions has been reduced to little more than militants, who, by far not all but most, of whom were trained and have developed in the traditional views unadapted to present circumstances. The unions, weak to begin with, are quasi automatically driven towards a negative position towards any issue or proposal from other parties, by lack of means of action, of expertise, or of time of skilled officers. They tend therefore to rely even more on the traditional views of the traditional militants. Of course, there is no room for naive assumptions of reciprocal goodwill. Industrial relations are conflictual relations and power relations, and will remain so in France. But experience shows that zones of potential cooperation between labor and management are possible within that conflictual background and can be extended. This requires however a responsible labor movement and consequently a stronger labor movement than presently.

It is now clear that in France the Government cannot strenghten the labor movement by law, as it has tried to do. However it can give it the means of recovery into a labor movement that would be better adapted to current employee expectations. It can remove legal obstacles to union presence and can provide catalysts such as union restricted benefits, check-off, a role for unions in the granting of social security and unemployment benefits (which otherwise in Europe seems correlated with a high density of unionization).

The statutory changes in law must be focused to these ends. It is clear that one of the reasons for the failure of the 1980's Acts to reach their purpose was that they were trying to accomplish several different and sometimes contradictory things at the same time: to affirm a socialist ideology (works

council "control" over enterprises), to strengthen the unions, to increase the rights at work of the individual worker, to promote collective bargaining, and to promote participation and employee self-expression all of this in a climate of international competition for enterprises. These texts therefore went half way in contradictory directions, and the result was insignificant.

Also, it is clear that the fate of the duty to bargain in France demonstrates again that foreign imports are hard to develop in a different climate. Either they are rejected outright, such as arbitration was in the 1930's in France, or at best they are plated onto the local reality where they are either neglected or produce an end result totally different from the original expectations.

It should also be underlined that weak unions mean weak works councils and vice-versa. The two institutions do not substitute for each other but mutually support each other. In the absence of a strong union willing to enter into exerting influence on working conditions of employees, and economic performance of the firm, methods of production, the work council with however howevermuch information and consultation rights is at best a tool for managerail communication and employee involvement. Alternatively, without works councils granted information and consultation legally enforceable powers, unions are without a legal foothold in the enterprises, and without information to act and weigh on important decisions.

References

Amadieu, J.-F., "Labour Management co-operation and work organization change: Deficits in the French Industrial Relations system, in OECD, New Directions in Work Organization: The Industrial Relations Response, Paris, OECD, 1992

Auroux, J., Rapports sur les Droits des Travailleurs, Paris, La Documentation Française, 1981

Coffineau, M., Les Lois Auroux dix ans après: Rapport au Premier Ministre, Paris, La documentation Française, 1993

Delamotte, Y., "La loi et la négociation collective en France : Reflexions sur l'expérience 1981-1985", Relations Industrielles, Vol. 42 no 1, 1987

Greyfié de Bellecombe, L., "Worker's Participation in Management in France: the Basic Problems". International Institute for Labor Studies Bulletin, June 1969, p. 54

Kochan, T. A., Katz, H. C., Mc Kersir, R. B., The Transformation of American Industrial Relations, New-York, Basic Books, 1986.

Le Maître, A. et Tchobanian, R., Les Institutions Représentatives du Personnel dans l'Entreprise: Pratiques et Evolutions, Rapport de Recherches, Aix-en Provence, LEST, 1989

Lorwin, V. R., The French Labor Movement, Cambridge, Mass., Harvard University Press, 1954

Ministère du Travail de l'Emploi et de la Formation Professionnelle, Dossiers Statistiques du Travail et de l'Emploi, Paris

Ministère du Travail de l'Emploi et de la Formation Professionnelle, La négociation collective en 1991, Paris, La Documentation Française, 1993

Morel, C., La grève froide, Paris, les Editions d'Organisation, 1981

Rojot, J., "Human Resource Management in France", in R. Pieper (ed.), Human Resource Management : An International Comparison, Berlin, De Gruyter, 1990

Rojot, J., "Profit-Sharing and Gain-Sharing in France", in Lafferty, W. M. and Rosenstein, E., International Handbook of Participation in Organizations, Oxford, Oxford University Press, 1993

Rojot, J.,"Industrial Relations in Europe: Recent Changes and Trends", The International Journal of Comparative Labour Law and Industrial Relations, Vol 4, N° 2, 1988

Rojot, J. et Luttringer, J.-M., Rapport au Comité FORCE de la CEE sur la Formation Professionnelle Continue et la Négociation Collective en France, Paris, 1993, mimeo (publication forthcoming in English)

Sellier, F., La confrontation sociale en France (1936 - 1981), Paris, Presses Universitaires de France, 1984