



CALL FOR PAPERS

**THE COLLECTIVE DIMENSION(S) OF EMPLOYMENT RELATIONS:
ORGANISATIONAL AND REGULATORY CHALLENGES IN A
WORLD OF WORK IN TRANSFORMATION**

**SEVENTEENTH INTERNATIONAL CONFERENCE
IN COMMEMORATION OF PROF MARCO BIAGI**

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**Marco Biagi Foundation
University of Modena and Reggio Emilia**

The collective dimension is inherent in the concept of the employment relationship, and private rule-making by collective actors has long played a key role in the regulation of the workplace. From the employer's perspective, the company may be seen as a typically collective entity: an organisation (or work community) where the performance of work needs to be integrated, managed and evaluated with a view to achieving shared goals. From the employee's perspective, the organisation of common interests along collective lines has traditionally proved to be the most effective way to achieve a countervailing power to the employer and reinstate a balance of forces in the employment relationship. At the same time, the practice of establishing collective representation bodies has been embraced on the employers' side, going beyond a mere reaction to the unionisation of employees.

In employment relations, the collective dimension is probably the most exposed to the pressure of societal, political and economic changes. In the last few decades, scholars and policy-makers have focused almost exclusively on forms of collective representation (in the form of trade unions, or seeking legitimisation from a direct link with the workforce) on the workers' side, for the purpose of dealing with conflicting interests by means of a countervailing power. However, recently a different dimension has been attracting increasing attention, the 'collective-relational' dimension, consisting of the web of relations among workers belonging to the same workplace. This does not constitute a means to achieve countervailing power, but rather a phenomenon inherent in the employment relationship.

The situations within the collective dimension of employment relations – whether they concern the dialogue between conflicting interests in relation to the individual employment contract, or the representation of divergent interests within the sphere of each collective player, or organisational links



within the workplace – are part of a continuously evolving process, whose most recent expressions are largely affected by global phenomena, influenced by the social, cultural and institutional factors characterizing each system. This highlights the potential of the comparative method as a means to assess systemic changes, to predict future scenarios and prepare for developments in the field.

The institutional, economic and social developments taking place in recent years have the potential to disrupt traditional patterns of collective employment relations. These developments may lead to an irreversible decline of collective employment as we know it, along with its players, legal framework and conceptual tools. However, taking a more optimistic view, like every critical development, they may lead to a resurgence, with the legitimation of new actors and representational strategies, the foundation of innovative regulatory and managerial models, and the emergence of new forms of action, under the enduring assumption that the employment relationship is based on a complex web of personal linkages and on the pluralism of interest-holders.

The factors bringing pressure to bear on the collective dimension of employment relations include the fragmentation of the workforce and the alarming condition of the classic ‘health indicators’ of industrial relations, such as union density (particularly significant, at least in Italy, from the point of view of employers’ associations, whose membership rates are declining dramatically) and collective bargaining coverage. As inequality increases across society, in the multi-level regulatory system of industrial relations the degree of coordination among the players at different levels is weakening, threatening the role traditionally played by collective bargaining in promoting solidarity and universal protection.

In addition, a disaffection for collective representation rights is increasingly evident in the institutional framework. At the national level, the action of lawmakers and governments is often accompanied by arguments in favour of ‘disintermediation’, in the sense that the State should deal with employment regulation autonomously, with no need or entitlement for social dialogue to intervene in the drafting or implementation of the legislative process. At the supranational and international levels, the instruments typically envisioned in industrial relations to empower employees and engage them in the drafting and enforcement of employment regulations, i.e. collective bargaining and industrial action, are trumped by the economic rights and freedoms of the enterprise, thus undermining the collective defence of employees’ interests. This is clearly the case in the European Union, although arguments aimed at challenging the established status of collective rights have also been put forward within the ILO, with particular reference to the right to strike.

The institutional framework reveals a mismatch between regulatory provisions and the demand for fair working conditions in relation to the emerging economic and social phenomena. The digital revolution gives rise to new organisational arrangements in the workplace, and new ways to perform work that often fail to meet the traditional criteria for the classification of employees. As a result, trade

unions and representative bodies face a challenge to their capacity (and legal entitlement) to mobilise collective interests, linked to ‘virtual’ workplaces where in many cases workers are denied minimum employment rights and protection. The digital, ‘platform’ or ‘gig’ economy also calls into question the role of unions in overseeing and influencing employment conditions in relation to key issues such as the measurement, monitoring, assessment and remuneration of the work performance, the protection of work-life balance against the growing intrusiveness of work in private life enabled by mobile devices (‘time porosity’), the impact of new technologies on health and safety, the adaptation of occupational skills to new work processes, and responses to the digital restructuring of undertakings entailing redundancies or the relocation of production.

The ‘fissured workplace’ outlined above has a negative impact on collective solidarity not only in relation to the classification of individual employment relationships, but also with regard to supply chains, in which large groups of workers are denied the power to influence decisions taken by the lead enterprise, that is the final beneficiary of the production process. In both cases, legal constraints may prevent the collective mediation of interests, given the possible conflict between collective bargaining, competition law and entrepreneurial freedom, as the European experience shows.

However, it is also possible to detect signs of resilience of the collective dimension, that may result in a new start for the collective regulation and management of the workplace. At the supranational level, recent policy initiatives, such as the European Pillar of Social Rights, reaffirm the role of Social Dialogue in “reinforcing social rights and enhancing sustainable and inclusive growth”, underlining the right of workers to be informed and consulted in a timely manner on matters relevant to them, such as restructuring, and to negotiate and conclude collective agreements. This encourages the recourse to the well-established concepts of collective employment relations in the face of the challenges posed by social and economic transformations, with particular reference to the digital economy and its far-reaching consequences.

In addition, an increasing number of initiatives by collective actors are giving rise to a range of traditional and innovative practices involving both old and new actors. To give just some examples in the Italian experience, reference may be made to the plant-level agreement concluded by Amazon with a sectoral trade union in May 2018, placing limits on night and weekend shifts, in response to coordinated industrial action by Italian and German workers. Another significant development is the Delivery Riders’ Charter promoted by the Municipality of Bologna, in response to protests by gig-economy workers, though in the courts these workers have not managed in every case to uphold their claims to the right to join a union and conclude collective agreements.

In the background stands the idea of searching new alliances between traditional and new players, like trade unions and other non-governmental or civil organizations, to pursue combined or joint efforts.



It is necessary to continue to investigate the emerging phenomena, to understand how collective bodies are responding, to identify to what extent and under what conditions the collective dimension can still be considered a theoretical perspective for the analysis of employment relations, and the role that collective players and practices should play in the regulation and management of the workplace.

In order to move the discussion forward, encourage the exchange of views, and promote an interdisciplinary debate, contributions are invited from the international scholarly community on topics concerning the impact of the transformation of the world of work on the collective dimension of employment relations, divided into the following tracks:

Track 1: Trade Unions and Employers' Associations

Traditional forms of association shaping the collective dimension of labour relations and promoting solidarity and fair competition in the labour market are under strain. As trade unions struggle to organise and represent the interests and needs arising from the new forms of employment and increasingly diverse individual career paths, on the opposite front employers' associations are facing the temptation of the bigger companies to set up independent regulatory systems and opt out of multi-employer representation. As a result, collective agreements risk losing their wage-setting role as universal sources of worker protection. This could open the way for an increasing individualisation of working conditions, exposing workers to brutal market forces.

The right to trade union association, collective bargaining and the right to strike may thus become ineffective for an increasing proportion of the working population. The impact of the transformation of employment appears to be exacerbated by a hostile legal and judicial environment, in which social rights and civil liberties are trumped by economic freedoms and antitrust law.

These developments are likely to frustrate attempts to promote union action at the transnational level, although transnational union networking appears to be an effective strategy to keep up with the relocation of economic undertakings, coordinate local initiatives, and put pressure on multinational corporations, that are among the leading players in the digital economy, in order to combat regulatory cherry-picking and social dumping.

Papers presented in this track should address these issues by focusing mainly on the following research questions:

- What innovations are trade unions and employers' associations adopting, in terms of their organisational choices or regulatory strategies, to keep up with the economic, social and technological transformations affecting the world of work, in order to maintain or expand their constituencies?

- How is the representational action of trade unions, including collective bargaining, adapting to the challenges posed by the new productive systems? How do collective agreements address pay, productivity, skills, welfare and emerging social needs?
- Is there a need for trade unions to focus more closely on individual workers' interests, given the increasing differentiation of their personal career paths? How can the internal organisation of unions and the relationship between collective agreements and individual workplace arrangements be redesigned to strike a balance between the general protection of workers' rights, the principle of solidarity, and the pursuit of individual goals?
- How is it possible to ensure that the actions of trade unions and employers' associations, including collective bargaining coverage rates, reflect the representativeness of the actors, without infringing on the fundamental right to association?
- Is the model of representation based on trade unions suitable for the gig economy and digital workers? Should the legislative framework be reformed to ensure that these workers enjoy the right to collective representation (including collective bargaining and industrial action) or can this be achieved by means of an innovative interpretation of the regulations in force?
- Is there a need to strike a new balance between collective employment rights, competition law and business freedoms, to ensure that trade unions maintain their systemic role and keep up with the transformations of the world of work? Do legal concepts need to be reconsidered to this end? What lessons can be drawn from comparative studies?
- How are trade unions reacting at the transnational level to the emergence of 'virtual' companies without a clearly defined geographical identity? How are they dealing with the forms of organisation through supply chains, that give rise to risks for workers' rights and fair competition?

Track 2: Workplace Representation

Digitalisation and the major social and economic transformations affecting the modern world of work are rooted in the workplace. They mainly involve the reorganisation of production models and the adoption of new managerial practices that require different forms of implementation by different players, with a direct impact on working conditions. Company restructuring entails a redesign of job descriptions, tasks and skills, in the framework of a relationship between the individual and technological devices, opening up unexplored and unpredictable paths (bringing to mind the debate on the robotisation of the workforce and on the use of algorithms in the assessment of work performance). In some cases, these processes may have harsh social consequences, for instance, leading to large-scale layoffs. At the same time, innovative performance management systems give rise to new work arrangements (including decentralised and remote working) with the monitoring of the execution

of the tasks, the appraisal and remuneration of worker performance, the analysis of the data collected by means of digital tools used as mechanisms of control, and the possible uses made by the employer in respect of decisions concerning the employees.

One of the constitutive elements for the efficient functioning of workers' involvement has been an identifiable workplace and an identifiable company. This precondition, however, is increasingly eroding. There is a 'volatility' of legal structures as virtual corporate networks emerge (especially MNEs using matrix organisations), areas are outsourced or brought back in-house, companies are run without formal group structures and projects are characterized by global cooperation, vertical structures are replaced by flat hierarchies, dislocating strategies are weakening the basis for employee involvement.

These developments cast light on the company as a specific and autonomous regulatory forum, accelerating the trend away from higher normative levels evident in recent times, particularly among the largest and most powerful players. They also give rise to the opportunity for employee representatives to take part in the modification of existing work patterns by means of employee involvement and participation. In both cases, workplace representation bodies come to the fore, possibly leading to a redefinition of their relationship with trade unions, and even to the emergence of new actors, who may find themselves in competition with the traditional players.

Papers presented in this track should address these issues by focusing mainly on the following research questions:

- What is the relationship between the different collective mechanisms at the workplace, namely collective bargaining and employee participation bodies? How are rights and responsibilities distributed among the players? Do the new organisational and managerial processes give rise to more cooperative workplace relations and innovative forms of complementarity between collective bargaining and employee involvement? Are information and consultation rights suitable to deal with the challenges posed by the digital restructuring of companies?
- How can workplace representation intervene with regard to the mechanisms determining working conditions in the new productive and technological scenario, such as the algorithms used in the design and assessment of work performance?
- Is the coordination between the various levels and sources of collective regulation of employment relations still necessary to strike a fair balance between the needs of employers and the rights of employees?
- How can representative bodies contribute to the design of remuneration policies consistent with the needs arising from the transformation of the workplace, while ensuring fair working conditions?
- How can workplace representation bodies contribute to the regulation and the management of the work environment resulting from the transformation of employment, with regard to crucial

issues such as monitoring and control, health and safety, and people analytics, considering that the performance may not be linked to a physical workplace?

Track 3: The Workplace as an Organisational Community

Acknowledging the existence of a collective-relational dimension in the employment relationship calls into question the capacity of the individualistic perspective of contract law (from which labour law is ultimately derived) to cover all the the complex and heterogeneous features of subordinate work.

It is difficult to argue that the individualistic perspective represents the only frame of reference for the justification of the legal prerogatives of the employer in respect of the management of the workforce in the organisation. An evaluation of employment merely in an individual perspective is likely to be insufficient. On the contrary, it is possible that, along with situations related to the single binding relationship between employer and employee, different situations be envisaged, that assume a legal significance only in the perspective of the unitary consideration of the relationships that take place in the organizational community. This emerges clearly from the appreciation of the importance of the organisation in the context of the employment relationship. It is evident that the interest of the employer in the organisation, as outlined above, cannot be limited to the individual level but necessarily extends to the collective dimension where multiple occupational skills are represented and need to be organised, coordinated and managed.

In addition to the purely individual dimension of the employment contract, the collective dimension may well increase in importance. The collective dimension is characterised by the fact that one of the parties consists of individuals considered in a unitary and inseparable way. In order to engage with the other party, these individuals acquire importance not separately but as members of a group (or community) of organised workers.

Papers presented in this track should address these issues by focusing mainly on the following research questions:

- Is it possible to look at the employment contract not only as a contract for the exchange of obligations, but also as a contract in which the employer embeds the employee in the organisational structure and, in particular, in that part of the structure represented by the employee community? Or, on the contrary, are there legal constraints that prevent the collective dimension of the organisation from having an impact on the contractual framework?
- How and to what extent can the interest in the organisation and the inclusion of the worker in the community affect the allocation of contractual obligations?
- The collective-relational dimension seems to serve as a logical and factual basis for the emergence of collective interests. To what extent is the appreciation of this dimension linked to the traditional concentration of workers in a specific physical space?



- Could the emergence of digital forms of work affect the perception of the community and, as a result, make it more difficult to organize and achieve the countervailing power of workers? What instruments could be used to prevent this?
- An appreciation of the collective-relational dimension and of the employer's interest in the organisation of the work seems to show that a purely atomistic management of the workforce is not feasible. In particular, with reference to the choices made by the employer on the basis of comparative evaluations that may have an impact on the workforce, can one consider the employer to be vested with a genuine power of choice? If the exercise of this power is not limited by law or collective agreement, can it be considered as totally discretionary, or on the contrary can a general principle of non-arbitrary choice be found?
- What are the parameters that are legally relevant for verifying the rationality of employer choices? What role can be envisaged, for this purpose, for the skills possessed by each worker, with regard to the business needs of the enterprise?

SUBMISSIONS

Participants who intend to contribute to one of the conference tracks should submit an expression of interest by **20 July 2018** with:

- the title of the proposed paper;
- an outline of about 500 words (not including the bibliography), specifying the topic and the nature of the paper (theoretical analysis, discussion paper, presentation of empirical data);
- the disciplinary (or inter-disciplinary) domain of the paper (e.g. Labour Law, Organisation Theory, Labour Economics);
- the author's affiliation;
- an indication of the conference track for which the paper is intended, bearing in mind that the Organising Committee reserves the right to assign papers to the track and session they consider to be most appropriate.

Expressions of interest will be selected by the Organising Committee by **7 September 2018**.

Selected authors will be invited to present an extended abstract (2000 words, bibliography excluded) no later than **26 October 2018** with a brief discussion of the results and conclusions of the paper.

Extended abstracts will be selected by the Organising Committee by **9 November 2018**.



Selected authors will be required to submit a paper of 8000 - 10000 words no later than **15 February 2019**. The papers should take the form of a research article rather than simply the description of work in progress.

In cases in which it is not possible to accommodate all the contributions in the plenary or parallel sessions, the Organising Committee may offer authors the opportunity to present their work in the poster sessions.

The Organising Committee reserves the right to reject papers that are not consistent with the conference tracks or with the expression of interest/full abstract previously approved.

The Organising Committee will select the contributions to be included, after revision, in the Conference Proceedings to be published in 2019/2020 by an international publisher. By submitting their final papers, the authors agree to the publication of their paper in the proceedings in case of acceptance by the Organising Committee, in compliance with the no-multiple-submissions rule.

The working language of the conference sessions is English, and interpreting services will not be available. Abstracts and papers should be submitted in English.

DEADLINES

- Deadline for submission of expressions of interest: 20 July 2018.
- Deadline for submission of extended abstracts: 26 October 2018.
- Deadline for submission of full papers: 15 February 2019.

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CONTACTS

Expressions of interest, abstracts and full papers, as well as requests for information, should be addressed to: Iacopo Senatori (Researcher, Marco Biagi Foundation): iacopo.senatori@unimore.it

The first draft of the conference programme will be distributed by the end of **January 2019**.

Further information will be posted on the Marco Biagi Foundation website: www.fmb.unimore.it