

## **Intellectual Origins of the European Labor Relations System**

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### **Abstract**

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*The flexibility of labor markets in the United States is an under-appreciated element in the continuing strength and resilience of the US economy and an important source of comparative advantage on international markets. Although the rights of employers have certainly been constrained by a raft of legislation and by executive orders and courts decisions designed to achieve equal employment opportunity, the common law doctrine of employment at will remains the foundation of labor law. In European countries – with Italy, Spain, and France being the most important examples – and in most of Latin America, labor law has been formed around a completely different concept that can be broadly defined as corporatism. This doctrine arose after World War I and grew to prominence during the years of the Depression and World War II as countries struggled to blunt what they considered the hard edges of capitalism and to engage their populations in national efforts for war and for social regeneration. Corporatism brought together Catholic social doctrine, populist anti-capitalism, and fear of communism into a comprehensive set of rules and structures forming a “third way” dedicated to social harmony and employee empowerment. It informed the social doctrines of Fascist Italy, the Vargas regime in Brazil, and the Vichy government in France; but despite this unhealthy gestation, it survived as the basis for much of the social legislation underpinning the European economic recovery after 1945. What seemed like a benefit at the time, has become a liability in the global economy of the 21<sup>st</sup> century; and much of the political struggle in contemporary Europe (2019) cannot be fully explained without an understanding of this background. (Kaplan, 2001); (Lund, 2006).*

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### **Introduction**

The flexibility of labor markets is often cited as a reason for the superior performance of the United States economy when compared to Western Europe. But it is easy to forget how much this flexibility owes to a theory of labor relations, a legal framework, and a different conception of the relationship between employers and employees that is unique in the industrial world. This concept of employment at will derives from English common law, but the U. K. and its former dominions have strong socialist traditions that have curbed some of the features of this legal framework. In the United States there is still a fundamental acceptance of the idea that an employer has the right to terminate an employment relationship without providing a just cause or good reason, provided that there is no provable violation of discrimination statute or a labor contract. This makes life easier for management and facilitates the restructuring of enterprises, the reallocation of human resources, and improved profitability of businesses. The burden of unemployment is shifted to the employee and to society as a whole. By contrast, in most of continental Europe a complex web of laws, customs, and deeply rooted social attitudes protects workers from what are seen as the destructive tendencies of a capitalist system. This social contract is a fundamental fact of economic life that resists change even as governments and employers press for the flexibility that is generally seen as an essential element in economic growth.

Of course, it is true that employer rights to hire and fire are constrained by laws covering discrimination and that part of the workforce operates under collective agreements that are protected by law and that can supersede employment at will. Nonetheless, society recognizes the right to sever employment provided that actions do not violate a specific law. Human resource departments generally write policies for constructive discipline and insist on documentation in cases of dismissal, but they also recognize the right of an employer to terminate employment for a good reason, a bad reason, or no reason at all. The steady decline in union membership – from 40% of the private sector workforce in 1960 to fewer than 10% in 2019 – means that union protections are limited to workers in the public sector, legacy firms, and certain niche employment markets such as entertainment and professional sports. Other employees are, in the words of President Obama’s first inaugural address, “on their own” in front of employment law, barring a demonstrable case of employment discrimination or contract violation.

In the countries of continental Europe things are very different. The post war consensus gave a wide range of rights to workers both individually and collectively. These include employment security with the requirement to provide justification for termination, notice periods, severance indemnities, and the right of appeal up to and including reinstatement. At the collective level, employees are expected to form works councils that provide shared governance and are empowered to negotiate on a wide range of working conditions, including salary and benefits and the right to consultation on any major organizational change. These social networks are entrenched in the employment practices of France, Belgium, Italy, Spain, and Portugal. They also exist in Germany although they have been attenuated as a result of reforms enacted under the Schroeder administration in the early 2000s. Great Britain, with its traditions of common law, has resisted the European social model, notwithstanding its own socialist tradition. As far back as 1994 it opted out of the “Social Chapter” of the Treaty of Maastricht which sought to strengthen works councils and an array of protections for workers in their employment relationships. The ongoing debate over these social policies – and resistance to importing EU standards – can be seen as one of the underlying reasons for the strength of the Brexit movement.

### **The Nineteenth Century Origins of Corporatist Thinking**

The complex intellectual origins of this employment framework are the subject of this paper. While usually attributed to the influence of socialism, they are more correctly situated in a long tradition of Catholic social doctrine deriving from a search – dating back to the late nineteenth century – for a “Third Way” between Marxism and the unfettered free market of laissez-faire capitalism. This philosophy can be subsumed under the rubric of Corporatism. While it has played out differently in each country, it has common roots and a coherent social message. The focus here will be on the roots of Corporatism in France and its spread to other “Latin” countries in Europe – Italy, Spain, Portugal, and Belgium - and to Latin America, notably to Brazil.

The concept of the corporation has a long history stretching back to the rise of commerce and industry in the late Middle Ages. The corporation – or what is more commonly referred to in English as a guild – allowed craftsmen from particular trades such as miller, tailor, cooper to organize for purposes of mutual support. This included training of apprentices, diffusion of quality standards, and agreements on pricing. Over time these corporations did develop rigid structures that the early liberal economists – Adam Smith in Britain and the Physiocrats in France – considered to be restraints on trade. In fact, the reforming French Minister of Finance, Robert Turgot, actually abolished the corporations in his 1776 edict. In Britain, the rise of factories and mass distribution gradually eroded the power and influence of these trade associations.

The free market economy of nineteenth century Europe generated wealth and economic progress on a scale never seen before, but it was also accompanied by a new host of social problems that had the potential for producing social conflict on a similarly vast scale. A major manifestation of this bubbling undercurrent was the Paris Commune of 1871, an insurrection of working and lower classes in the French capital against not only the established government but also the church and the military that were seen as bulwarks of an unjust social order. While the Commune was put down in a bloody series of pitched battles across Paris, the uprising scared the establishment and led to a reassessment of social policy. Two aristocrats and military officers who had participated in the repression – Rene de la Tour du Pin and Albert de Mun – dedicated their lives to developing and disseminating new doctrines based on the old ideas of corporatism. Addressing what they saw as a clear and present danger, they presented their ideas as a “third way” between classical liberalism with its unfettered market competition and Marxian socialism with its appeal to class warfare and its attacks on established religion. (Elbow, 1953).

Rene de la Tour du Pin, a French aristocrat (Marquis de la Charce), had served in the Crimean War during the Second Empire and fought in the Italian War of Independence. He then saw service in the Franco-Prussian War of 1870 and was taken prisoner at the Battle of Metz, where Bismarck's army overwhelmed French forces under Louis Napoleon, the French Emperor Napoleon III. Sent to a prisoner of war camp at Aix-la-Chapelle (Aachen), he met a fellow aristocrat, Albert de Mun (Comte de Mun), whose former service included engagement during the French conquest of Algeria. Liberated from the prison camp, these two officers returned to Paris in 1871 where they took part in the military suppression of the Commune that followed the signing of a peace treaty with the Germans. They were shocked by the ferocity and bitterness of the Commune and by the savage nature of the repression. Composed of army troops who refused to surrender to the Germans and working-class revolutionaries inspired by socialist ideas, including those of Karl Marx, the Communards seized large areas of the city. Writing from his exile in London, Marx declared "the dawn of the great social revolution which will liberate mankind from the regime of classes forever." (Madsen, 2019). Communards kidnapped and subsequently killed the Archbishop of Paris in retaliation for attacks by the army, then burned the Tuileries Palace and town hall (Hotel de Ville) before being routed and disbanded by the National Guard of the new Third Republic that had replaced the defeated Second Empire of Louis Napoleon. Contrary to Marx's predictions, the Commune was brutally and definitively suppressed. 20,000 insurrectionists were killed in the fighting, along with 750 government troops. In the repression that followed 38,000 were arrested and more than 7000 deported.

The objective of La Tour du Pin and de Mun was a social doctrine that would reign in what they saw as the brutality and class struggle inherent in capitalism while offering an alternative to the godlessness and materialism of socialism. The result was a network of Catholic workers clubs where workers and wealthy people met to discuss social problems. The clubs spread rapidly throughout France in the decade following the establishment of the Third Republic in 1871. As devout Catholics, La Tour du Pin and de Mun disagreed with laissez-faire economics as the official public policy. They were both ardent royalists who supported the return of the monarchy which they saw as having a sacred duty to look over the people and represent their interests against the merchant and industrial class. These positions actually provoked an official condemnation from the Ministry of War in a Third Republic always fearful of a coup by monarchists and extreme nationalists. However, their doctrines attracted the attention of Pope Leo XIII who shared their concern about the growing social conflict and saw their corporatist philosophy as a valid solution and a coherent response by the Church to this growing threat. The result was his encyclical, *Rerum Novarum*, promulgated in 1891, that addressed the condition of the working classes, defined the mutual rights and duties of labor and capital, and asserted the doctrine of social justice as a responsibility of Catholics and an obligation of the Church. At the same time, the encyclical defended the role of private property and condemned the forced redistribution of property being preached by socialists.

What exactly was this social philosophy that took on the name of corporatism without necessarily being organized as an official school or doctrine in the way the Marxian socialism was being organized at the same time? Its inspiration was the apparently ordered society that had existed before the French Revolution and the advent of unrestrained capitalism. In this society, corporations grouped people of the same profession – workers, managers, and owners – and brought them together in a mutual effort to advance the cause of their particular industry or trade. This included establishing standards of quality; training and professional development; apprenticeships for new entrants; agreement on standards such as working conditions, salary and wages, benefits; and – something that Adam Smith and other liberal economists found objectionable – setting "fair" prices to regulate competition. The state would foster the *unity* of professions and industries organized into parallel federations ultimately combined as organic national "corporations" in order to avoid the ills of laissez-faire capitalism with its anonymous and "atomistic" interaction of unconnected individuals. They saw in this historical framework a social order promising harmony, prosperity, solidarity and inclusion. The social partners – workers, owners, and managers – would have the incentive to work together for their mutual benefit and to serve the public in a responsible manner. There would be no need for the class struggle preached by socialists or for the unregulated capitalism that had sown the seeds of social discontent which promised to burst out in a replay to the disastrous Commune. (Mayeur, 1972).

This social doctrine received endorsement from an unlikely but influential source, the pioneering sociologist Emile Durkheim. Durkheim research, most famously presented in his treatise *On Suicide*, was concerned by what he saw as the creeping alienation of modern industrial society as old bonds frayed without being replaced by any constructive new sense of solidarity.

He saw in corporatism a means of repairing the social tissue while maintaining a commitment to economic growth, private property, and the defense of religion against the “godless” materialism of socialist doctrine. The fit with social doctrines developed by La Tour du Pin and De Mun was logical and served the same purpose of meeting the need of individuals for social connections and the need of society as a whole for a stronger element of social justice.

The one piece that did not fit into the new model was political. For De Mun, this social order needed the anchor of a strong state which came for him and his followers to be represented by the Third Republic. Even the Pope eventually relented and instructed Catholics to give up their yearning for a return of the monarchy and to accept the Republic as a legitimate source of government power. La Tour du Pin, however, remained true to his monarchist roots and continued to support the cause of the pretender to the French throne, the Count of Paris. He found an important ally in the right-wing theorist and political activist, Charles Maurras, editor of the *Action Française*, a weekly that became the source for anti-Republican and other brands of reactionary thought following its founding in the wake of the Dreyfus Affair at the beginning of the twentieth century. (Weber, 1962). In short, while it never achieved the status of a coherent political, social, or economic theory in the way that socialism and classical liberalism had done, corporatist thinking entered the twentieth century as a system of beliefs that sought to navigate between these two extremes even as its proponents were divided over appropriate methods for implementing these ideas through the political system.

### **The Twentieth Century: Corporatism in Practice**

For many people, the cataclysm of World War I and the subsequent Russian Revolution destroyed faith in the established order and brought a much more intense interest in alternative social philosophies. These ideological debates were to play out in France during the interwar years and into the Vichy regime that ruled occupied France during World War II. But the first triumph of corporatism as an official doctrine took place in Italy where it was adopted by Mussolini’s government in the Labor Charter of 1927. The chief theorist of Italian corporatism was Giuseppe Bottai, who served as Under Secretary of State for Corporations under Mussolini. The Charter stated private enterprise to be the most efficient form of economic organization, but stated clearly the rights of labor to engage with business in forming a labor contract for solidarity among workers and managers. Article 6 stated that “legally recognized professional associations ensure the equality between workers and employers ... that corporations constitute the unitary organs of production and integrally represent its interests.” (Mussolini, 1927). The Fascist state had taken on the role of supporting the interests of workers and requiring that employers secure these interests and balance them fairly with their own. It incorporated the ideal of social harmony and productive efficiency together as a national effort coordinated but not managed by the government. It was the basis for a series of labor law guaranteeing employment security, representation of workers on internal councils, and formal grievance procedures. Unlike the United States, where making these rights contractual required a union election, the workplace in Italy conceded them to all workers regardless of their employers’ size or status.

The decade of the nineteen thirties saw corporatist ideas flourish in other European countries. In 1933 the Portuguese dictator Antonio de Oliveira Salazar introduced the *Estado Novo*, a new corporatist order that posited syndicates of workers and employers for the purpose of “realizing maximum production and wealth that is socially useful to establish a collective way of life that reinforces social stability for the State and social justice for all citizens.” In 1938 the Nationalist government in Spain created regulatory commissions as a basis for a future corporatist organization with both vertical integration by product and horizontal integration by economic sector. With the rise of Nazism and its early success in driving down unemployment and generating economic growth, Germany became a model corporatist system. A law of February 1934 divided the economy into seven large sectors – *Reichsgruppen* – each run by a “*fuhrer*” and divided along lines of specific industries and professions. While these groups were controlled by leaders of big business, they did include important components of worker representation and required that employers define a social policy for their employees to include pay, working conditions, benefits, and opportunities for leisure and professional development. Brazil’s 1934 Constitution, put into place by Getulio Vargas, integrated European corporatist thinking in an effort to build social harmony and gain worker support for aggressive modernization that was designed to transform an economy based on the plantation system to a modern industrial society. Vargas copied many of the worker protections and acquired rights into Brazilian labor law, a move that was emulated by Juan Peron when he became the populist leader of Argentina and rose to power as a champion of workers’ rights while preserving the most important prerogatives of the business and propertied class.

In France, the debacle of 1940 led to German occupation and the creation of the new Vichy regime under the hero of World War I, General Philippe Petain. In a turn away from the socialism of the nineteen thirties, Petain instituted a social program dedicated not to Liberty, Equality, and Fraternity but rather to Work, Family, Country. Launched as the National Revolution, the social doctrine of the Vichy regime was overtly corporatist and drew on the deep roots of this philosophy within France as well as on what appeared to be a successful model already implemented in the victorious Fascist powers, Germany and Italy. Beginning with an effort to organize production, combat unemployment, and address wartime shortages, Vichy built the framework of a planned economy. Organization committees followed the corporatist strategy of grouping workers, managers, and owners by industry sector, with each category having its own rights and responsibilities for ensuring a productive enterprise but without resorting to social disruption or class conflict. Much as La Tour du Pin and De Mun worked to overcome the bitter legacy of the Paris Commune, Vichy wanted to move beyond the social conflicts – massive strikes, factory occupations, and forced wage increases – that characterized the Popular Front of Leon Blum who governed in 1936 and 1937.

The final piece of Vichy economic architecture – the Labor Charter (*Charte du Travail*) – was designed to address the issue of social conscience and the ongoing debate within the government over the philosophy that should guide economic policy. While technocrats within the government, like the young economics minister, Jean Bichelonne, were moving full speed ahead in implementing a system of economic planning and rationalization, traditionalists in Petain's cabinet at Vichy were putting together a wide-ranging program for renewal that was both economic and social. The National Revolution sought to bring France back to its roots as a Catholic country built on strong values of work, family, and country. Its economic philosophy identified with corporatism as a middle way between capitalism and socialism. This philosophy built on the ideas of Catholic social doctrine, but was enriched by thinking from social engineers like Jean Coutrot and the efficiency expert Georges Bedaux, who saw the opportunity to modernize work and improve productivity by building strong social relations between management and labor. This was exactly the philosophy espoused by Bichelonne and the thinkers with whom he had associated during the decade before the war. While the programs were being implemented in close concert with business owners and managers, the corporatist intellectual elite who had risen to prominence under Vichy was concerned about insufficient input from the other “social partners” – workers, professionals, and the public – whose views were also important in Catholic social doctrine.

After months of debate over the role of workers and artisans and their representation in the economic structure, the Labor Charter – “the Law relative to the social organization of professions” – was finally adopted in October of 1941. Its expressed aim was to suppress the class struggle. The five categories of professional occupation – executives, white collar and blue-collar workers, foremen, and middle managers – were each given representation on social committees formed within each branch of economic activity. Thirty “professional families” – branches of economic activity – would form the basis for developing a social program and for giving all workers a voice in the running of businesses. The Charter officially dissolved trade unions and prohibited strikes, notwithstanding the objections of Rene Belin, the trade unionist who headed up the Ministry of Labor. Belin had wanted to keep a separate role for unions within an overall corporate structure, but settled for the top down version that eventually became law. In exchange for these authoritarian clauses, the Charter did respond to many demands of the labor movement and represented “state of the art” thinking on a wide range of issues in industrial management. It established a minimum wage for the first time in France, contained stipulations on the need for all business to support professional development, initiated studies of social insurance, and required each business to set up worker representation committees or internal unions. All of these became fundamental features of French labor law and personnel practice after the war.

While the Labor Charter was not fully implemented and fell victim to the ongoing pressures of a wartime economy and political frictions within the Vichy government, it did represent an important current of thought and a sincere commitment to putting social theory into action. It drew inspirations from earlier French corporatists, but also from the Italian labor statute, developed by Giuseppe Bottai, and from official Catholic social doctrine in which *Rerum Novarum* of Pope Leo XIII (1891) and was updated by *Quadragesimo Anno* of Pope Pius XI (1931). Important input also came from thinkers within France as diverse as Charles Maurras, the leader of a prominent right-wing movement, Action Francaise, and Charles Perroux, an economist associated before the war with the Rockefeller Foundation, translator of Keynes, and antagonist of what he considered the disintegrative and demoralizing effects of free market capitalism.

As economics minister and effectively the czar of the Vichy economy, Jean Bichelonne would make periodic efforts during the war to breathe life into the Charter and extend it into the fabric of the country's industry. (Yigal, 1998).

Consistent with corporatist tradition, these teachings rejected both the free market individualism of classical economics and the materialism of Marxian socialism in favor of collaboration between workers and business owners in the pursuit of the common good. In this framework, the organizations of big business – “Trusts” in the jargon of the time – would either cede their dominant role in the economy to inclusive professional associations or have their power significantly diminished by government supervision and social planning. The emancipation of the proletariat would be achieved in this new structure, as the interests of each worker and his family were taken into account and offered legal protections, allowing an escape from the brutal anonymity of unbridled capitalism. The end of World War II and the collapse of fascism spelled the end of corporatism as a viable political philosophy, though it did linger on for another three decades as the ideological prop for marginal regimes in France and Portugal and had a second life as the Vargas and Peron regimes returned to power in Brazil and Argentina. But while the Vichy Charter's goals were too lofty for the harsh atmosphere of wartime France, their intellectual framework and most of their content did survive the Liberation and were incorporated into labor laws and practices adopted by General De Gaulle when he formed the Fourth Republic. Much the same occurred in Italy and the other countries touched by corporatism. The search for a “third way” between Communism and pure laissez-faire capitalism was important to the European model of capitalism. Leaders used the social conscience and social policies in their efforts to fend off the persistence of strong parties on the left threat while rebuilding Europe's role as a competitive force in the global economy. The European model of social contract and collaborative employee relations – codified in labor law - owed its coherence to the legacy of corporatism. The foundations of this system have been incorporated into the regulatory framework of the European Union, even though they have always been resisted in Britain where employee relations remain rooted in a more transactional approach consistent with common law – rather than administrative law – principles. This may indeed be a subtle but important motive behind Brexit, as the British have consistently pushed back against attempts to impose the European social model on their economic system.

### **What are the key components of the European social model?**

The first is a persistent preoccupation with unemployment. Social attitudes, reflected in the legal system, are very protective of the employment relationship and impose many barriers to its termination. Consequently, once an employee has passed through the trial period, terminating that employee becomes difficult and complicated. The employer must be prepared to prove that the termination was justified, either on economic grounds or because of failure on the part of the employee; must give written notice and written justification; and must pay statutory indemnities that are set either for a specific industry or by the government for all workers. In recent years, legislation has added another requirement that in some cases prior authorization of the labor inspector is necessary. If the termination is affected, a system of labor courts (*les Pruh'hommes* in France) gives workers broad latitude and support in appealing the termination. In many instances the employer can be forced to rehire the worker. An unintended consequence of this social protection is the reluctance of employers to hire new people on anything more than a short-term contract, thereby exacerbating the unemployment situation that these protectionist measures were designed to combat. Finally, if the termination does go through, generous unemployment benefits undercut the incentive of workers to take on new jobs. In the case of a collective lay-off, the company is required to publish a “social plan” that spells out in detail the economic reasons for the lay-offs as well as severance payments, outplacement assistance, and plans for future employment at the company. Efforts by successive governments to lighten this regulatory load have had limited success. The Shroeder government that ruled Germany in the early 2000s did achieve some notable break-throughs, one of the reasons given for the strong performance of the German economy since that time. In France, efforts to make employment agreements more flexible have been tried and have failed or stalled under the governments of Dominique de Villepain, Prime Minister from 2005 to 2007; Nicholas Sarkozy, President from 2007 to 2012; and the current President of the Republic, Emmanuel Macron. Spain inherited a thicket of labor laws, notably protection against lay-offs, from the old Franco dictatorship. These have resisted numerous efforts at reform over the years. In Italy, a consultant to the Labor Ministry who was working on a comprehensive reform of the labor law, Marco Biagi, professor of economics at the University of Bologna, was gunned down by terrorists in 2002. Spain inherited a thicket of labor regulations that have largely resisted fundamental reform. (Paparella, 2002).

A second element of the social contract deals with mandatory efforts to improve employee welfare and working conditions. While the social welfare state looks after employee benefits that are generally handled in the United States through private insurance, labor regulations in Europe impose much more comprehensive regulations. These vary by country, but include subsidized meals in a company cafeteria or equivalent lunch vouchers that employees of smaller companies can use at local restaurants. Visits by a doctor contracted with the labor department, are required to check on the health – both physical and mental – and the working conditions of employees in each company location and employees can report any issues to the doctor in strict confidence. Workforce and professional development are taken seriously. In France, for example, companies are required to spend at least 2% of payroll on training and development. All of these social programs are reported in an annual social audit (bilan social) which allows labor inspectors to control the extent to which employers are devoting attention to the well being of their employees.

Another piece of the social package involves mandatory employee representation. This concept of works councils reflects the corporatist notion of the worker as partner that regimes between the wars tried to implement as part of a collectivist politics that would unify society rather than splinter it with class struggle as was happening in the Soviet Union. The post-1945 Christian Democrats who ruled Italy and Germany and later in Spain, the Gaullists in France, and the Social Democrats who alternated in power all shared this fundamental philosophical viewpoint. As in corporatist, this arrangement was seen as bringing social peace and as a result better and more consistent economic performance. But the argument was not simply about economic efficiency. More fundamentally, it reflected the ongoing influence of corporatist and Catholic social doctrine about the need for social inclusion. It is not a coincidence that in Latin languages the word “social” is a synonym for matters dealing with labor and labor rights. (The Economist, 2003). These councils have roughly the status of a labor union in the United States but are not required to be voted in by an open election. They are obligatory for all employers of more than fifty people and they have broad powers of engagement not only in matters directly pertaining to employee welfare but also to questions of corporate strategy. This idea of employee involvement in the running of the enterprise – “codetermination” or Mitbestimmung in German – stems from the desire to engage the worker in making the enterprise a more just and equitable place to work.

A final hold over from the corporatist days is the organization of industries into professional families, each of which can determine collectively its appropriate rules and regulations within the larger framework of the labor law. This means that items such as termination indemnities and premium pay for shift work are negotiated in the collective agreement that applies to each sector of the economy. In the United States, the National Labor Relations Act (Wagner Act) established collective bargaining by allowing worker to organize for an election and requiring employers to bargain over a contract if the union won the required majority of votes in the election in order to be recognized as the bargaining agent for all employees. The European system is very different and derives from the corporatist model of organizing by sectors or professional families. Bargaining takes place not at the level of individual companies or even work units, but at the industry level where all employers get together with one union and negotiate terms and conditions that apply to the entire industry. An employer’s federation representing the industry negotiates with a union representing the workers in, say, the restaurant industry; and then this agreement is extended to all businesses in the sector. As a result, all workers obtain union representation and all employers have the same pressure to observe rules and follow agreements on pay, benefits, and working conditions. There is no opportunity for firms in the same industry to under-cut their competitors and, since all firms work under the same terms, the non-union firm has no advantage over a union firm or any incentive to move to another location in order to avoid unionization. In fact, individual employees do not even need to join a union to receive these benefits, as the benefits extend to all employees in the industry. As a result, in France, for example, while the level of union membership is actually rather low – only 7.7% which is even lower than in the United States - fully 98% of the workforce is covered by a union collective agreement. (Matthews, 2017). Some union activists in the United States are looking at the European model as an alternative to the American system which with steadily declining union membership in the private sector – where fewer than 10% of the workforce is unionized – and stagnant employment growth in the public sector, the union movement is seen by some to be in a long run death spiral. Sectoral bargaining on the European corporatist model may be an answer to this fundamental social issue; but one that could have fundamental impact on the underlying competitiveness of the United States economy. (Katz, 2004).

## Conclusion

In June of 2019, Emmanuel Macron, President of France addressed the one hundredth anniversary assembly of the International Labor Organization. Coming off of a year when he was consistently denounced by “Yellow Jacket” (gilets jaunes) protestors as a “President of the rich” for his efforts to reduce wealth taxes and create more flexibility in employment law, Macron surprised many commentators with what sounded more like a corporatist than a classical liberal address. He denounced “a capitalism that has become unjust; the other face of globalization that links with outsourcing and the degradation of working conditions.” The remedy, according to Macron, is not to abolish or even curb capitalism itself but rather to give it a human face by “realigning the interests of different categories of citizens” so that the voices and status of the working and middle class are not sacrificed to programs that benefit the elites. He advocates for a “tripartite solution” whereby social and economic policies are arrived at through a transparent dialogue among three equal partners – unions, employers, and the government – in a process whereby “while decision making may take longer, there will be more solid and socially just results.” The corporatist paradigm lives on in official dialogue and in the never-ending effort to answer fundamental questions of economic opportunity and social justice. The history of corporatist thinking has left European leaders with answers that are fundamentally different from those that prevail in the United States. The debate will continue as American academics and social activists look to Europe for a new approach. In doing so they need to realize that these two paradigms – the European and the American approach to employment law and practice – are based on very different philosophical assumptions with deep historical roots.

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