

To Redress Forgetting

2012 Walmart Labor Organizing and a Theology of the American Workplace

Tackney, Charles T.

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***To redress forgetting: 2012 Walmart labor organizing and a
theology of the American workplace***

A submission for the 40th Annual Lonergan Workshop at Boston College

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Charles T. Tackney, Ph.D.

Associate Professor
Email: ct.ikl@cbs.dk
Phone: +45-3815-3815
Department fax: +45-3815-3840
Department of Intercultural Communication and Management
Copenhagen Business School
Porcelænshaven 18A
Frederiksberg, Denmark 2000

ABSTRACT

This paper applies theology of the workplace and cultural cognition studies to support recent “open source” labor union action at Walmart in North America and redress the lack of clear 2012 teaching on the social question by the U.S. Catholic Conference of Bishops. In an era of diminished cultural awareness about the role and significance of labor unions, insight-based critical realism, as a component of workplace theology analysis, can complement cultural cognition legal research for more effective labor organizing as well as Roman Catholic engagement in the social question. Comparative employment ecology workplace models, focusing on the U.S., Germany, and Japan, help in the historical derivation of practical, normative benchmarks for organized labor and management in respect to enacting more authentic employment relations. The benchmarks are grounded in theology of the workplace guidelines drawn from Roman Catholic encyclical teaching. Two basic parameters are shown to be particularly salient for the U.S. case: just cause dismissal protection and employee participation in managerial prerogative. Specific legal enactments and a strategic organizing model are offered in the conclusion for both union strategizing and collaborative church support.

Two 2012 news items from the end of the year frame this study of labor organizing strategy and theology of the workplace analysis: Walmart worker and community activism in North America and the U.S. Conference of Catholic Bishops failure to produce a conference paper on the nation's economic crisis. A closer look at each will help fill out the basis for this offering to the 40th Annual Lonergan Workshop of Boston College, with its 50th Anniversary theme focus on Vatican II reforms and renewal.

When the Christmas shopping season began on Black Friday, November 23, 2012, labor organizers throughout North America successfully demonstrated at 1,000 Walmart stores across the United States of America and Canada (Greenhouse, November 23, 2012). One of the main organizing units for this action was the Organization United for Respect at Walmart (OUR Walmart).¹ It is allied to the United Food and Commercial Workers International Union (UFCW), a labor union representing 1.3 million workers in the U.S. and Canada.²

Walmart has a long history of resisting unionization efforts; this coordinated event was no exception. Walmart filed for an injunction against protest efforts with the National Labor Relations Board (NLRB). The grounds were that the protests, along with related protests over the past weeks, "violated a federal law that bars unions from picketing for more than 30 days when seeking union recognition" (Ibid.). The NLRB has yet to make a determination on this request.

Ironically, the protests were not, at least not entirely or explicitly, aimed at seeking union recognition according to the organizers. Something considerably more, if also considerably less, was going on. While union recognition would be nice, the organizers knew that American

¹ <http://forrespect.org/> .

² <http://www.ufcw.org/about/> .

workers often lack any clear notion of what role labor unions serve. Charles Fishman, author of The Walmart Effect, has observed,

Most people don't have any sense of what a union could provide. They don't know people who work in union organized companies or industries, and the unions are promising things that most people don't have any experience hearing about happen from their friends and colleagues. And so it's much more of a commentary on the relevance of unions and their ability to communicate than it is about whether Wal-Mart is a good place to work or not (Wertheimer, November 22, 2012).

Walmart is not just any neighborhood store and is “more than just the earth’s largest retailer” (Statistics of walmart superstore.). It operates the 25th largest economy in the world, twice that of Ireland’s national economy. Walmart employs 1.4 million people, with the CEO earning 924 times that of the average employee. As one member of the U.S. Senate observed in reference to the U.S. having the most unequal distribution of wealth and income “of any major country on earth”; “One family, the Walton family of Wal-Mart, owns more wealth than the bottom 40 percent of Americans” (Sanders).

By way of domestic comparison, average U.S. executive pay differential estimates range between 185 to 475 (Anderson, Collins, Klinger, & Pizzigati, August 31, 2011; Viral Facebook post, 2011; WePartyPatriots). While these multiples suggest considerable variance in estimate range, the level of the U.S. multiple simply pales in any comparison with other industrialized nations. The ratio in Britain is 22:1, Germany is 12:1, and Japan – the lowest of industrialized economies – is a scant 11:1 (Anderson et al., August 31, 2011; Viral Facebook post, 2011).

Coincident with Walmart protest planning in the face of general American forgetfulness about the role and function of organized labor, the United States Catholic Conference of Bishops (USCCB) failed to produce any paper or position at all on the current domestic economic crisis in its annual conference. Despite a long history of Catholic teaching on the social question in

general and specific support for organized labor in the U.S., a Conference draft paper failed to gain the two-thirds votes needed for acceptance as a Conference statement (Dolan, 1992; Dolan, 2003; Gibson, Nov 13, 2012).

Criticism of the draft was widespread and severe, particularly – it was reported – by retired bishops who can speak in conference but are no longer eligible to vote. The draft document lacked evident linkage to prior U.S. Catholic Conference history or documents. It offered little more than general advice focused on individual pietism. Instead of economics or employment issues, the draft took up abortion and the encouragement of family values. Consultation on the draft reportedly lacked any input from economists or other specialists. Gibson observed,

Yet in a sign of the growing generational and ideological split among the bishops, some of the younger and more conservative bishops wanted to kill the statement because they believe the hierarchy should largely restrict their statements to matters of faith. They also view traditional Catholic social teaching with suspicion, and say the church should emphasize private charity rather than government action to cure social ills (Ibid.)

In the end, the Conference concluded without analysis, action-principles, or explicit goals in support of the American worker.

While rejection of a poor document may evidence some hope that Conference judgment remains sound, the sheer absence of competence to task at this critical time recalls the cultural “forgetting” by Americans referenced in the Walmart efforts. Bishops, no less than the average worker, appear prone to a pattern of knowledge and/or commitment loss in regard to social teachings of the Church or the more remote goal of advocacy to authentic employment conditions for the American workforce.

These U.S. bishops, some 270 men, are the legal executives of American Catholicism. As a nation, the U.S. has the fourth largest Catholic population in the world (Economist, 2012). The

Catholic Church is the largest charitable organization in America, with the U.S. church possibly responsible for 60% of “the global institution’s wealth” (Ibid.). As a simple example of executive significance, Timothy Dolan, the Cardinal-Archbishop of New York “is believed to be Manhattan’s largest landowner, if one includes the parishes and organisations that come under his jurisdiction” (Ibid.). Yet, the Church faces severe domestic fiscal challenges: the clerical abuse scandals are estimated to have cost some \$3 billion. Eight of the nation’s 196 archdioceses and dioceses have declared bankruptcy. Collections are estimated to have declined by as much as 20%. And the future of Catholic education faces severe fiscal and labor force constraints, given the vast loss of religious vocations. Of prior generations, these individuals collectively assured parochial Catholic education a leadership and teaching labor pool highly educated, religiously obedient to superiors (for the most part), and available at hiring rates far below nominal compensation for instructors (McCloskey & Harris, 2013).

Against these two news items and background, I will explore cultural cognition as an explanatory variable and analytical tool for the contemporary U.S. political process. I have two goals in mind from the cultural cognition exploration. First, these pages will specify a more robust approach to domestic and international union strategizing. Second, a theology of the workplace analysis will aid Catholics and others in common cause to “remember” Catholic social teachings (CST) by deriving principles that can reasonably, yet significantly, move towards more authentic employment relations in the U.S.

The hermeneutics of Vatican II reform and renewal, at this 50th Anniversary, should offer practical support to American labor organizers no less than those responsible for Church leadership. This theology of the workplace study is intended as one contribution, being firmly

grounded in religious teaching that speaks to the goal of enhanced employment authenticity in the workplace. At stake in the near term is the shape and nature of economic democracy in a nation famous for legitimate achievements in political democracy. The recent presidential elections bear witness to a substantial increase in participative diversity; perhaps the time has come for believers and religious leaders to take up anew a Christian commitment to economic democracy.

METHOD

This is an interdisciplinary theory study intended to aid scholar and practitioner reflection in labor analysis and advocacy by theologizing about authenticity in the workplace. It has four sections with a concluding discussion:

- I begin with a critical review of emerging literature on cultural cognition. The ‘critical’ aspect hopes to strengthen this literature by situating it within an epistemological context of insight-based critical realism.
- Second, an expanded labor organizing model is described, which combines the existing U.S. strategic labor organizing model with comparative employment law components informed by insights from study of Japan’s post-World War II employment relations labor law achievements in economic democracy.
- Third, the historical emergence of the Japanese model is explained to ground a practical basis for basic employment principles shown to be consistent with a theology of the workplace.

- Fourth, a theology of the workplace analysis describes how emergent employment patterns in different national cultures may be critically assessed and linked to the historical development of teachings on the social question in Roman Catholic encyclical and documents.

The paper ends with a discussion of how these steps may be applied to cultural cognition in future organizing. In addition, implications for future research are taken up by discussing concrete proposals in legal advocacy, in the hope that comprehensive organizing may be linked with theology of the workplace analysis for the goal of more authentic employment relations.

1. Cultural cognition, insight-based critical realism and why individual values always matter

To account for domestic U.S. polarization in public policy risk propensities among the electorate, U.S. legal scholars have taken up study of *cultural cognition* as a concept capable of explaining observed variance in election outcomes (Kahan, Dan M., 2006, 2011; Kahan, Dan M., Slovic, Braman, & Gastil, 2006). The basic premise is that cultural commitments come prior to factual knowledge in respect to political issues. Kahan wrote, “cultural commitments operate as a kind of heuristic in the rational processing of information on public policy matters” (2006, p. 149). These commitments may include views concerning the role and function of organized labor (Hogler & Henle, 2011; Kahan, 2006).

For these legal scholars, cultural cognition refers to “the psychological disposition of persons to conform their factual beliefs about the instrumental efficacy (or perversity) of law to their cultural evaluations of the activities subject to regulation” (Ibid., p. 147). Kahan traced the origins of this approach to a combination of insights from anthropology and social psychology.

The work of Mary Douglas and Aaron Wildavsky is central to the former (Douglas, 1966; Douglas & Wildavsky, 1982) and suggests, “modern sensibilities and perceptions of danger are artifacts of our commitment to distinctive cultural orderings” (Kahan, op cit., p. 150). Kahan claims that individual orientations can be plotted along a two parameter dichotomy: GRID: egalitarian / hierarchist and GROUP: individualist / solidarist or communitarian.

From the latter field of social psychology, cultural cognition draws upon Festinger’s cognitive dissonance research (Festinger, 1957), in addition to studies on affect. The implication from this research suggests, “cultural orientations condition individuals’ beliefs about risk through a set of in-group/out-group dynamics” (Kahan, op cit., p. 153).

Hogler and Henle (op cit.) applied this concept to the contemporary attack on U.S. public sector unions. They disaggregated anti - union sentiment into cultural cognition patterns on the four-item cultural cognition scalar, plotting hierarchy / egalitarian against individualism / communitarian variance. The authors noted that right to work activists, “depended on political ideas involving free markets, race, individual autonomy, distrust of outsiders, and insularity” (p. 138). They traced this cultural cognitional 'set' or anticipatory heuristic through the 1980 election of Ronald Reagan to Tea Party and current anti – union state legislature activists, referencing post-Civil War attitudinal regional and reconstruction legacies. They found, in effect, “Right to work metastasized from its origins in the South and spread to its present dimensions by promoting American values to citizens in a competitive economic environment created by differential labor markets” (p.139). Hogler and Henle observed, “the result of union decline for most American workers is an ongoing decay of the institutional foundations of economic stability” (Hogler & Henle, 2011).

Cultural cognition effects may arise from ‘ongoing decay’ as the authors assert. This is a form of cultural ‘forgetting,’ which has a rather amorphous causal origin in the cultural cognition research. Simple human limitations of time and knowledge may be the source of such decay. Or, a people’s cognitional heuristic in culture may be proactively sought through complex, extended campaigns designed to influence prevailing cultural norms. We can consider an example of each.

The restrictive horizon of cognitional function due to limited time and knowledge may be present, if not explicit, in the most sympathetic labor union work. Consider a recent piece in support of the Walmart organizing effort (Weissmann, 2012). Weissmann, at least in the title, blames the American consumer: “Who’s Really to Blame for the Wal-Mart Strikes? The American Consumer.” He writes that the fault ultimately lies with the consumer for not being willing to pay the slight – on average for all Walmart purchases – additional costs necessary that would permit Wal-Mart employee compensation at a living wage. He concluded, “The problem, though, is that consumers only pay so much attention, and only have so many choices when it comes to where they shop. Those choices are largely dominated by the big box stores.” (Ibid.).

Weissmann’s conclusion reflects a cultural cognitional *stricture* that is not minor to matters of labor market function. He is correct in respect to the domestic status quo analysis; U.S. consumers do bear the burden of conscious preferencing for higher prices in order to overcome restrictive Walmart pricing. But he is also absolutely wrong from the perspective of a comparative national employment relations analysis. In other national settings, democracies function to free citizens from having to make certain market decisions in the supermarket in order that a greater communal good of order can prevail. Thus, for example, it is now abundantly clear in the U.S. that employer provision of health care benefits impacts product pricing in ways

not found in all other industrialized nations. The cost of a GM car carries this expense, while a Toyota import does not. Where health care is nationally assured to all citizens and eligible residents, medical costs are a matter of taxation. They are not, continuing the example, part and parcel of a General Motors collective bargaining agreement with representative labor unions.

The cultural cognition heuristic may, in contrast, be subject to deliberate manipulation over time. The current debate in the U.S. over gun control following the Newton, Connecticut murder of school children and teachers provides clear evidence of deliberative, carefully staged efforts to influence the nation's body politic.

Less nominally observed, however, is the fact that the ideological ground of a nation's industrial and employment relations system also requires a basic assent by the three actors that come to define a functioning system: employees, employers, the government, and their respective representative organizations (Dunlop, 1958; Dunlop, 1993). This heuristic is no less subject to manipulation. Fones - Wolf studied the origins and advocacy for corporate power from 1945-1960. From the evidence presented, she understandably concluded that for the long time frame of her study, "all major business organizations, including the Chamber of Commerce, the CED, and the NAM as well as industry-specific bodies like the Iron and Steel Institute, were heavily involved in the campaign to shape America's political culture" (Fones-Wolf, 1994).³

At this level of cultural cognition analysis, it may be useful to deploy insight-based critical realism as a complementary epistemological tool (B. J. Lonergan F., 1992). Human insight arises from the tension of inquiry and reflection, as an outcome of cognitional operations involving

³ The Committee for Economic Development (CED) and the National Association of Manufacturers (NAM).

experience, understanding, judgment, and decision. These operations are naturally manifest in the human subject, but are contextualized by the culture in which the subject develops. Human cultures, in turn, have their own path dependent developmental dynamic. Over the course of human history, the myriad cultural patterns may influence each other in beneficial or negative ways. Insofar as cultural developments are consistent with *the good of order*, then these emergent patterns represent a positive, observable developmental probability within human history (B. J. Lonergan F., 1973; B. J. F. Lonergan, 2005). While we will take up the good of order in more detail later, Liddy offers a useful definition of the term; “the concrete intelligible functioning that provides a recurrent set of particular goods for a great number of people at the cost of some particular discipline on the part of individuals” (Liddy, 1999). Thus, through the use of Lonergan’s insight-based critical realism, this relatively new legal construct of cultural cognition can usefully seen from an individual level to the implications for larger social groups, and even (in theory) the normative assessment of patterns of emergence in culture. As Lonergan wrote, “Insofar as the intelligibility of this universe is statistical, its goodness consists potentially in unordered manifolds, formally in the effective probability of the emergence of order, and actually in the effective emergence” (B. J. Lonergan F., 1992).

As this discussion has tried to show, cultural cognition, and its limitations, is evident in contemporary approaches to labor organizing in the U.S. This recognition is not a criticism, rather an acknowledgement of reasonable and correctable bias in light of further comparative cultural analysis. Labor organizing in the U.S. seeks union recognition and collective bargaining rights: wages and working conditions. But this is only one approach to labor union and employee representational structures. The industrialized world offers a range of different approaches, some

rather more advanced than what currently is on offer in the U.S. (C. Tackney T., 2001).

In the next section we examine the U.S. comprehensive labor organizing strategy approach, offering two modest structural components for its enhancement. These come from comparative employment relations, specifically Japan's post-World War II struggles by organized labor and the EU approach to employment security and employee representation in the workplace.

2. Comprehensive Labor Union Strategizing: A Comparative Employment Law Addition

Walmart picketing and allied actions are widespread, carefully focused protests aimed at making employees, management, and consumers more aware of basic, if critically important, economic democracy issues. These efforts share inspiration with the emerging Union Strategic Corporate Analysis (USCA) and campaign framework literature (Juravich & Bronfenbrenner 1999, 2003; Bronfenbrenner 2007). Within the history of postwar U.S. employment relations research, this union organizing literature arose after strategic choices by American management in the 1980s brought an end to the long postwar stability in U.S. labor relations (T. Kochan A., Katz, & McKersie, 1986; T. A. Kochan, Katz, & McKersie, 1984).

The USCA intends to offer comprehensive labor organizing tools for the U.S. labor movement. The goal is to assess the various stakeholders involved in any labor issue and target each so that pro-labor outcomes can be more effectively obtained (Bronfenbrenner, 2007; Juravich, 2007; Weil, 2005). The strategy framework comes from a study of company structure histories and successful union strategies in the USA (Juravich 2007). This USCA approach not only recognizes the strategic changes that have taken place in the role and perception of

American management prerogative, but also the impact of multinational, transnational or global corporations on labor unions.

Practically, the USCA calls for study of the targeted global corporation: identify decision making processes (stakeholders), then specify the broader system of business relationships (global value chains) and value generation businesses (profit centers), and grasp the business strategies (growth plans). For reasons explained below, the basic model is offered here with an additional level of analysis: the legal employment ecology of the target given enterprise. This ecology concerns the institutionalized extent of employment protection and participation present in practice within the target organization.

Figure 1 here

This approach is in distinct contrast with traditional union efforts that would aim at improvement of wages and working conditions by taking on only the CEO, management, and primary operations of the company. *Comprehensive campaigns* selectively pressure the specified stakeholders, business relationships, and business units instead of simply picketing the factory.

While domestically comprehensive, comparative employment relations research and reflection indicates one important limitation in this analytical framework, easily pointed out and remediated. The USCA organizing framework does not adequately comprehend how exceptional the U.S. labor relations approach is among national employment relations systems throughout the world. Two elements of comparative employment law should be added to the analytical framework, as shown in Figure 1. This step was first suggested by Peter Wad in a co-authored

analysis of labor organizing efforts against Toyota in the Philippines (Wad & Tackney, August 2009); the additional elements are highlighted. The first concerns the presence or absence of just cause dismissal protections as enshrined in legislation or case law. The second concerns the presence or absence of institutionalized employee participation in aspects of managerial prerogative – whether this is obligated by legislation, as in the European Union, or permitted by administrative guidance that situates such intra-enterprise discourse and dialogue within the framework of collective bargaining agreements, as in Japan.

Neither condition obtains in U.S. employment and industrial relations. But domestic operations of foreign firms may well be constituted with such features, which are factors that should cast foreign firms organically more disposed to labor actions in the United States.⁴ Accordingly, both elements should be part of any labor strategizing in respect to international firms and their subsidiaries operating in the U.S.⁵

⁴ While they should be *organically* predisposed to these forms of employment relations, foreign firms in the U.S. may be *strategically* inclined to resist their deployment or adaptation to the U.S. employment relations circumstance. Either way, these are potentially potent factors to include in a comprehensive labor organizing strategy analysis.

⁵ We may briefly footnote note here, as it will be relevant to later parts of the paper, that management theorists are also prone to oversight due to issues related to cultural cognition. In Japan, a whole generation of management scholars has taken up, with varied success, the works of Masahiko Aoki and Kazuo Koike, theories that offer “the J-firm” and “white collarization” as substantive accounts for Japan’s postwar management success (Aoki, 1988; Koike, 1988). The J-firm posits the long-term employment patterns observed in Japan represent an implicit, reciprocal agreement between reasonable employers and grateful employees – essentially firm-intrinsic determinations. Kazuo Koike, in developing his white-collarization construct, claimed that the functional equivalent of Japan’s enterprise unions are to be seen in European Works Councils.⁵

Both Aoki and Koike explicitly rejected the existence of lifetime employment in Japan. And both were wrong in doing so. The truth is simpler, if arguably more interesting in light of contemporary comparative employment history and research. The comparative history of U.S. and Japanese employment relations indicate there are achievements in the Japan case that the U.S. has yet to comprehend or enact. These achievements can help domestic U.S. labor organizing as much as they can help in modern labor study of Catholic social teaching.

3. The historical emergence of Japan's employment relations ecology

While lifetime employment is a uniquely Japanese approach to employment relations, the underlying legal principles that gave rise to its case law recognition reflect deliberate, adaptive appropriations of European jurisprudence to post-World War II labor disputes (Kettler & Tackney, 1997; C. T. Tackney & Sato, August 2012). If we consider the Japanese enterprise as a corporate legal person with various internal dynamics balancing power, information, and managerial prerogative, a firm-specific "ecology" suggests itself. Presented as an analytic model, comparison with other national labor law systems becomes a real methodological possibility. Employment ecology models of national enterprises in the U.S., Germany, and Japan are presented in Figure 2(a-c).

Figure 2 here

In each model, solid lines depict clear demarcation and functional opposition. Dotted lines suggest a functional interrelationship: transparency in power, information, and even personnel. Japan's postwar employment ecology offers an explanatory and comparatively useful model of legally constrained managerial prerogative, combined with crystallized customs from case law decisions, which initially compelled and now continue to assure a degree of employment security that finds few parallels elsewhere in developed nations. To be clear, the Japanese employment security/management participation values set obtains for both regular and repeatedly re-hired term employees in Japanese firms and organizations. This system continues to be recognized and regulated by Japan's courts, including the Supreme Court (C. T. Tackney & Sato, August 2012).

These comparative models manifest comparative employment law and practice as simple synchronic diagrams. But a diachronic perspective embraces their full comparative significance. The Japanese model is historically based on U.S.-style labor legislation that has been interpreted by Japan's courts in terms largely, and boldly, adapted from continental European jurisprudence (Kettler & Tackney, 1997). Two parameters of adaptive appropriation are particularly important: just cause for dismissal restrictions and the potentially unlimited degree of employee participation in managerial prerogative through establishment of German-style works councils localized in and defined by enterprise-specific collective bargaining outcomes. In Japanese, these are commonly known as 'management councils' (経営協議会, keikeikyogikai).

Another feature of the Japanese employment ecology is inclusion of first level managerial staff in the firm's enterprise union. Japan's enterprise unions are definitely not company unions (Benson, 1996). They are instead linked in complex affiliations by locale, region, industry, and peak organizations, which help coordinate wage and working conditions on a national level, focusing on what is known as the Spring Wage Offensive.

In sum, the Japanese employment relations system obliges just cause grounds for dismissal, with the judicial basis of this causal analysis largely in favor of the employee. Then there is the collective bargaining agreement system of enterprise unions and employers undertaking collective bargaining at the enterprise or corporate level with limited regulation by state agencies. In addition, there is the labor-management council (LMC) system of employers and elected employee representatives, where all issues specified as potentially topical in the collective bargaining agreement can be discussed and negotiated. Top management retains responsibility for enactment of decision outcomes.

Due to the collective bargaining-specific grounding of the management councils, there is considerable variance concerning the extent to which employee representatives influence or impact specific management decisions.⁶ As we will see, thorough and correct insight into Japan's development of employee participation is essential for an appropriate assessment of employee participation diffusion, its absence, or its strategic/tactical misrepresentation by management in Asia and elsewhere.⁷

Recall that Japan's postwar adaptive appropriations of jurisprudence were all from nations that are Western and Judeo-Christian in religious background: U.S. labor legislation, German and continental European judicial and case law interpretations of the employment agreement and works councils. Japan, however, is a Buddhist nation with a long indigenous Shinto tradition. Initial contact with Christianity through Portuguese traders and Jesuit missionaries was fairly recent in world history, commencing around 1543.

Yet, in a remarkable historical irony, Japanese synchronic benchmarks of just cause dismissal protection and employee participation in the life and manner of the enterprise offer a diachronic emergent pattern of cultural development with profound implications for theology, something that should aid 'open-source' Walmart organizing efforts no less than U.S. Roman Catholic bishops in conference.

4. A theology of the workplace

⁶ Some 80% of unionized firms in Japan have management council functions. Further, about 75% of firms with 5,000 or more employees feature management councils – with many of these being unionized firms. Overall, it is possible that the density of employee participation forums in Japan exceeds that of Germany (Ministry of Labor Policy, Secretariat Survey, 2010)

⁷ For a review, see (Markey, 2006) or any of his other excellent works on the topic of employee participation.

Culture and its emergent patterns throughout history constitute a legitimate domain for theological reflection. Bernard J.P. Lonergan, author of the landmark 1973 Method in Theology, wrote, “A theology mediates between a cultural matrix and the significance and role of a religion within that matrix” (Lonergan, 1973, p. xi). Further, an empirical notion of culture suggests it is “the set of meanings and values that informs a way of life. It may remain unchanged for ages. It may be in process of slow development or rapid dissolution” (ibid.).

For centuries, a classical and inherently normative sensibility regarding culture was the dominant paradigm in Western thought. However, this sensibility has been radically changed by the scientific method (B. J. Lonergan F. & Crowe, 1985; Lonergan, 1974). The historicity of culture, its myriad manifestations in modern society, bring various religious traditions and disciplines to the attention of all. Religion and theological reflection themselves become subject to the historicity that is the ever ongoing cultural process of human life and living.

This switch in the nature and method of theology, for the religion of Roman Catholicism, has been underway for some time. As Lonergan wrote, “When the classicist notion of culture prevails, theology is conceived as a permanent achievement, and then one discourses on its nature. When culture is conceived empirically, theology is known to be an ongoing process, and then one writes on its method” (B. J. Lonergan F., 1973). In this paper, I would like to take up Roman Catholic social teaching on the “question of the worker” with a view to critically evaluating the institutional parameters that constitute employment relations on a national level. The prior pages have enabled this interdisciplinary study to proceed.

This disciplined assessment of work circumstances based on CST constitutes the domain of *a theology of the workplace*, which can be defined as *the study of institutional and*

institutionalized features that variously enable or constrain managerial prerogative and employee participation within worksite, firm, organization, sector, region, or national political economy in light of religious doctrine (C. T. Tackney, 2013 forthcoming).

A theology of the workplace should aid derivation of useful and practical norms for achieving more authentic employment circumstances, owing to the encyclical tradition of teaching on the social question from which they will be derived. Religious teaching cannot answer all questions, nor can it necessarily expect assent from all believers, non-believers, or agnostics. Nevertheless, this empirical study should aid the clarification of religious thought on what does constitute, and what *should* constitute, the nature and function of managerial prerogative in modern societies. At a minimum, a theology of the workplace ought to be a source of challenge or pride to managers, regardless of the national setting they function within, as it takes religious tradition principles and specifies their practical deployment.

Roman Catholic teaching on the social question developed over more than a century of reflection since the first encyclical on the subject was written by Pope Leo XIII in 1891 (Leo XIII, 1891).⁸ Early teaching on the social questions tended to reflect a classicist orientation; they looked to the past, such as medieval guilds, to grapple with the exploitation and organizing hopes of workers as the industrial revolution proceeded. More recent documents have brought a range of interdisciplinary insights to bear on the issue of authentic employment relationships; these

⁸ Encyclical documents are, literally, "circulating letters" (from the Latin). These represent official Roman Catholic teaching dispatched by a Pope, intended to be taken seriously by believers, and offered to all individuals of good will. For an unofficial list of encyclical documents that take up the social question, see the Education for Justice webpage offered by the Center for Concern: <https://www.coc.org/>.

take up the empirical notion of culture, and boldly envision a different future freed from past historical forces that restrain or limit the potential of human authenticity in the workplace.

A theology of the workplace analysis applies encyclical and other religious teaching to the evaluation of institutional parameters governing employment relations. These parameters may be operative and studied at various comparative levels: national (ie, the United States of America, Germany, and Japan), surpa-national (ie, the European Union labor laws and member nation participation rates), firm-specific (ie, Walmart's wage levels and estimates of a living wage), or other functional constructs (executive compensation levels, by nation).⁹

For purposes of this paper, the comparative institutional parameters of interest are just cause dismissal protections and legal support for formal employee participation in the enterprise (that is, above and beyond wages and working condition issues). The reason for these two parameters being of particular interest is the historical achievement of Japanese labor law in the adaptive appropriation of both principles to essentially U.S. labor legislation (Kettler & Tackney, 1997). Reflection on the fact of this historical development prompted the insight regarding the historicity of labor market as a viable domain for theological investigation. Table 1 provides a summary analysis of all encyclical documents that reference these two parameters.

Table 1 here

⁹ Derivation and specification of the domain appropriate to a theology of the workplace analysis is given in (C. T. Tackney, 2013 forthcoming)

The documents suggest that just cause is a *minimal threshold condition* for the possibility of authentic employment circumstances. There are no evident exceptions for this in Catholic Social Teaching (CST, as the body of literature is termed). While Church respect for unique and important cultural tenants is an operative norm, the exceptional quality of U.S. labor law in respect to “at will” dismissal prerogative is nowhere characterized along such lines. The legal practice is essentially unfair and inappropriate in terms of CST.¹⁰

In this respect, the United States, except for the state of Montana, remains a global outlier among the industrialized democracies, perpetuating an ‘at will’ employment doctrine that began in judicial decisions that dealt with master-servant contractual relations (Feinman, 1976). Montana, curiously, stands as *the* exceptional State of the Union. In 2008, the Montana state legislature passed a law against unfair termination, becoming the first to institutionalize this core parameter of economic democracy according to CST (Roseman, 2008; Solomon, 2013).

Similarly, the U.S. employment relations system lacks any institutional parameter for employee participation in managerial prerogative. While the legislated approach taken by

¹⁰ Note that this CST position does not diminish the accomplishments of the U.S. workplace in respect to laws restricting various forms of discrimination. Just cause is simply a fundamental institutional foundation for justice in employment circumstances. Too, the specifics of just cause protections are beyond the scope of the present paper. I can note, however, by way of marked contrast to dismissal patterns in the U.S., that Japanese courts expect six steps be taken by employers before rationalization dismissals due to continuing economic difficulties in an enterprise may be found to be “just” by the courts.

1. Reduction in executive and managerial compensation,
2. Reductions in work days,
3. Selective closings of plant or sections,
4. Within firm transfers,
5. Given continued financial difficulties, the firm is expected to develop objective criteria for selecting those to be dismissed, with participation in criteria development by management council / union representatives, and
6. A good-faith effort to solicit approval from those to be dismissed need be made.

In a word, Japan’s post-World War II case law precedents in labor law hold *management* responsible for economic circumstances obliging rationalization dismissals (Kettler & Tackney, 1997; C. Tackney T., 2009a)

Germany and the E.U. may seem functionally inconceivable to the contemporary U.S. body politic, the Japan case offers a learning opportunity for experimentation. Localization of works councils within collective bargaining agreements should appeal to both conservative and liberal points of view in the U.S., as entrepreneurial partnership, along with the sharing of risk and reward, remains a strong feature of U.S. culture.

Emergent Probability and Cultural Cognition: the Redress of Cultural Forgetting

The analysis of the labor question throughout the CST literature indicates that Church teaching has moved radically beyond initial efforts to nuance industrial revolution era strife between capital and labor. In *Laborem Exercens (LE)*, promulgated in 1981 by John Paul II, even the view of what capital is and how we best think about it has profoundly changed. John Paul wrote for the "Conviction of the priority of human labour over what in the course of time we have grown accustomed to calling capital" (John Paul II, 1981)(P: 12). Given this conviction, he wrote to the necessity of employee participation, wherein labor - not capital - becomes the central, defining feature. Thus,

A labour system can be right, in the sense of being in conformity with the very essence of the issue, and in the sense of being intrinsically true and also morally legitimate, if in its very basis *it overcomes the opposition between labour and capital* through an effort at being shaped in accordance with the principle put forward above: the principle of the substantial and real priority of labour, of the subjectivity of human labour and its effective participation in the whole production process, independently of the nature of the services provided by the worker (P: 13, *italics* in original).

LE distinguishes between the direct and the indirect employer. The direct employer is the one involved in the explicit employment contract. The indirect employer is no less important, particularly given the call for revision of the 'rigid' notions of capitalism that are found throughout the contemporary world. The indirect employer "includes both persons and

institutions of various kinds, and also collective labour contracts and the *principles* of conduct which are laid down by these persons and institutions and which determine the whole socioeconomic *system* or are its result. The concept of "indirect employer" thus refers to many different elements" (P: 17, *italics* in original). *LE* noted, "When it is a question of establishing an *ethically correct labour policy*, all these influences must be kept in mind. A policy is correct when the objective rights of the worker are fully respected" (*ibid.*).

What, then, would constitute an authentically human employment relationship in light of CST? There are two levels of response to this question. The first concerns absolutely fundamental principles steadily maintained by Church teaching since RN. These include the following:

- A 'living wage'.
- The right for workers to organize and bargain collectively.
- Proper working conditions.
- The living wage can be further specified to include adequate compensation for the care and sustenance of family, both present and future needs, including health care in circumstances when the government does not provide this.
- A just employment contract, where employers dismiss only for just cause.
- The right of workers to have a continued participatory interest in what is produced, even and particularly beyond their own specific productive contribution.
- This right should progressively extend to workers the opportunity to become true co-owners of the enterprise.

These summary points characterize the foundational, basic elements of an authentic employment

relationship according to CST. But a second level of analysis is also asserted. CST now calls for remediation of the historical error that ascribed excessive importance to capital. This requires the careful, arguably progressive, inclusion of the objective rights as well as the proper subjective engagement of the worker in the totality of the employment circumstance. In *LE*, the order of social morality itself is postulated by *the principle of the priority of labour* (*LE*, P 15). Benedict XVI, extended this teaching legacy, wrote in 2009 that this calls for a “Profoundly new way of understanding business enterprise” (Benedict XVI, 2009)(P: 40).

According to CST, then, authenticity in employment relations involves basic principles, empirically present or absent as institutional parameters in national settings, but there is also an ongoing commitment to recast the human conditions of work for societal improvement. By this twofold criteria the actual functioning of cultural patterns can be theologically assessed, the refinement of norms advocated, and social conditions improved.

Following Lonergan’s Method in Theology, it falls to the lot of the theologian to take up the redress of forgetting in empirical approaches to culture. The historian is one of eight functional specializations described as essential to the contemporary theological task and consistent with the structure of human inquiry: research, interpretation, history, dialectic, foundations, doctrines, systematics, and communications(B. J. Lonergan F., 1973). The particular historical task is to judge and narrate what has occurred.

And it is this historical task that brings the paper full circle to the USCCB failure to speak to the signs of the times in U.S. economics and employment. We know from the specific principles that CST has long advocated, as previously detailed. The research historian can bring the significance of this oversight in sharper focus through consideration of three additional

teaching documents. Two are from the very Conference itself in 1919 and 1986, the third is from a new catechesis (compilation) of Church doctrine. All speak explicitly to the need for institutional parameters that ensure just cause in employment and employee participation in managerial prerogative.

At the end of World War I, the U.S. Catholic bishops issued a February 1919 report addressing the postwar reconstruction of American society (U.S. Catholic Bishops, 1919). While taking up the key conditions outlined above for the question of the worker, the document clearly emphasized the need for labor participation in industrial management. The bishops cited a document issued earlier by a group of 20 Quaker employers in Great Britain, which called for labor to gradually receive “greater representation in...the “industrial part” of business management — “the control of processes and machinery, nature of product; engagement and dismissal of employees; hours of work, rates of pay, bonuses, etc.; welfare work; shop discipline; relations with trade unions” (Ibid.).

This position has been steadily maintained by the U.S. Bishops Conference throughout the decades. In its landmark 1986 pastoral document, “Economic Justice for All: Pastoral Letter on Catholic Social Teaching and the U.S. Economy,” the Conference called for a new American experiment, which “...can create new structures of economic partnership and participation within firms at the regional level, for the whole nation, and across borders” (United States Catholic Bishops, 1986). Finally, as members of the Church, the Bishops Conference have recourse to the “Compendium of the Social Doctrine of the Church” (Pontifical Council for Justice and Peace, 2004). “Participation” is term cited 50 times throughout the document. In a discussion of work and the right to participate, the text states, “*The relationship between labour and capital also*

finds expression when workers participate in ownership, management and profits. This is an all-too-often overlooked requirement and it should be given greater consideration” (Ibid., P281).

Recognizing the changing nature of the workplace, the Pontifical Council continued,

The new ways that work is organized, where knowledge is of greater account than the mere ownership of the means of production, concretely shows that work, because of its subjective character, entails the right to participate. This awareness must be firmly in place in order to evaluate the proper place of work in the process of production and to find ways of participation that are in line with the subjectivity of work in the distinctive circumstances of different concrete situations (Ibid.).

DISCUSSION

This theology of the workplace study explored current labor organizing to redress patterns of forgetfulness in American culture. Just cause employee protection and employee participation in managerial prerogative are key institutional parameters necessary for authentic employment. We are witness to a recent, strong effort by organized labor to raise consciousness of citizens to the possible recognition of benefits that might obtain from labor unions. There is a concomitant need for supportive social analysis by all religious leaders consistent with the American history of useful collaboration between labor and church. In *Mater et Magistra*, John XXIII called for Catholic social teaching principles to be put into practice; this study may be one such effort (John XXIII, 1961).

The failure of the 2012 U.S. Catholic Conference of Bishops to powerfully speak for respect of the objective rights of American workers over a range of issues, or to particularly support union organizing, just cause dismissal protections, and significant employee voice in managerial prerogative must raise questions about the leadership available to task. This oversight further undermines already fragile trust in a Conference otherwise beset by ongoing crises:

clergy abuse issues, fiscal accountability, and domestic criticism arising from Vatican initiated investigation of certain U.S. organizations of religious women.

While it may oversimplify the complex issues faced by the Roman Catholic hierarchy, the USCCB members' role essentially confounds two potentially, but not intrinsically, conflicting missions: a responsibility to and for the Church's teaching authority and the ongoing exercise of managerial prerogative in a culture where CST dismissal restraint and employee participation is very far from the norm. Should silence reign from bishops in their teaching role on the question of the American worker, while unrestricted managerial prerogative come to characterize their executive function in Church management of parish, diocese, hospitals and elsewhere, then an effective role as guides to the faith and servants of the faithful would be fatally compromised.

In contrast, an effective 'workology of the churchplace' grounded in the institutional parameters detailed here could help to carefully distinguish behavioral patterns appropriate to church managerial prerogative from the teaching function of the hierarchy. For the latter, let the USCCB at least celebrate Montana, where just cause employment protections have become an institutionalized norm. For the former, support might obtain for a significant expansion of the role of married deacons to improve parochial education, planning and accountability, as suggested by McCloskey and Harris (2013).¹¹

For the labor organizing effort in the United States and elsewhere, a more nuanced and comprehensive organizing campaign strategy chart has been offered in light of comparative

¹¹ My citation of this modest proposal is not intended to overlook or mask the obvious, and obviously problematic, fact of labor market recruitment to the priesthood and hierarchy from only those males committed to celibacy. Yet, even this single step of empowering a present, competent, and presumably willing married diaconate would have obvious benefit and has considerable merit on its own terms.

employment relations and labor law studies. These same studies served to advance historical analysis of emergent cultural patterns consistent with the “good of order” – such that the Japanese approach to employment relations offers legally institutionalized parameters entirely consistent with Roman Catholic social teaching on the treatment of the worker.

When comprehensive union organizing campaigns proceed in the U.S., what might the Japan case suggest as a useful goal? First, just cause protection against arbitrary dismissal due to managerial prerogative appears to be a necessary, if not sufficient, measure for authenticity in employment relations. Catholic bishops, in support of this institutional parameter, can, as noted earlier, simply celebrate Montana. While U.S. employment has made advances in restraint of managerial abuse in dismissals due to forms of discrimination, just cause protections still remain outside the national norm.

Second, while legislation-based approaches to works councils, like the route taken by Germany and the European Union, appear unthinkable in the current American legislative structure, the Japanese approach offers a worthy and pragmatic alternative. The National Labor Relations Board appears to have sufficient authority, if as yet insufficient vision, to begin to permit experimentation in employee participation schemes as these might be enacted within collective bargaining agreements.¹² The Dunlop Commission explicitly recommended this step for the future of the American workplace at a time when the fact of Japan’s actualization of this recommendation based on similar labor legislation, was not well known (Commission, 1994).

¹² Gould, a former chair of the NLRB, has written sympathetically of Japan’s labor relations system (Gould IV, 1984; Gould IV, 1993).

One consequence of such a step should be an observable drop in CEO compensation differentials. This is due to the voice even tacitly given to employees through works councils or management council representation to management (C. Tackney T., 2009b). Church and labor advocacy of such measures can fruitfully combine to enshrine these practical institutional parameters certain to bring about an end to the extremely disordered level of U.S. executive compensation. This notion can be expressed as a verifiable hypothesis, directing future research:

H1: The presence of employee participation forums has a self-limiting effect on executive compensations levels, such that the excessive levels presently observed in the U.S. will gradually decline as experimentation in employee participation forums is permitted to proceed.

Third, John Paul II, in both *LE* and *Centesimus annus*, may offer grounds for hope in respect to the obvious loss of class solidarity in the U.S. context. The cultural cognition literature may also be supportive for reflection along the lines of future steps. If the strife of prior eras arose from a misapprehension of the real nature of labor-capital opposition, as John Paul II suggests, then perhaps the loss of class solidarity in advanced democratic states, such as the U.S., may indicate a deeper appreciation by U.S. citizens of the fundamental nature of their political democracy. The recent presidential election voting outcomes is a sign of this development.

As such, Catholic Social Teaching emphasis on the *primacy* of labor and the proprietary, participatory rights of employees to their labor product suggests due process grounds may come to matter in the apportionment and use of surplus value. On the one hand, participation in ownership risk, which certainly resides in management councils, suggests a need to revisit Dunlop Commission proposals for experimentation in employee representation. To this end, organized labor need not be the only source of encouragement for management participation

forums. Firms with management, staff, and shareholders who see the point of experimentation from their own wellspring of U.S. cultural cognition can be agents for change.

A second due process approach to labor organizing legal strategy may be found in court efforts to see excessive executive compensation as an abuse of managerial prerogative. In some respects, this would resemble the clawback legal actions taking place at present. It would be consistent with Japanese court tendencies to overturn dismissals of employees if the subsequent fiscal periods evidence rapid return to profitability. However, the ultimate goal of due process legal actions would be proactive, not reactive. The intent would be to establish guiding precedent within the repertoire of American cultural understanding such that excessive compensation would simply become inappropriate. To some extent, the steady research focus on this subject evidences first steps along these lines (AFL-CIO) .

In the U.S., the national cultural heuristic retains a deep appreciation for the need of employee participation in managerial prerogative. John R. Commons, the father of U.S. labor relations and founder of the “Wisconsin School,” wrote, “In some concerns...even the wage earners, organized or unorganized, have a compelling voice in determining the direction and extent of management” (Commons, 1968). As hypothesized, direction and extent ought to include legal means to rope in excessive executive compensation. Certainly this notion needs further work, but due process concerns about the manner in which an enterprise functions and how the populace benefits from commerce should remain an open and vibrant legal topic in advanced post-industrial societies.

Finally, authenticity in employment relations may well obtain in the U.S. in many specific cases due to a wise and professional management that exercises its prerogative in a manner

consistent with personal commitments to either religious or human principles that embody the institutional parameters we have explored: just cause dismissal protection and employee participation in the broad range of managerial prerogative. As should be clear at this point, the task of a theology of the workplace analysis differs from study of only the direct employer. It is a theological domain designed to assess the effects and role of what *Laborem exercens* terms the “indirect employers” as these are given in national culture. In an empirical approach to theology, the assessment of employment culture is an ongoing process of method, one designed to challenge the status quo in light of religious tradition. As Hauerwas wrote, “The problem is not that the kingdom brought by Christ is too idealistic to be realized. The problem is just the opposite. The kingdom present in Jesus Christ is the ultimate realism that rightly calls into question vague, secular ideals of freedom, equality, and peace” (Hauerwas, Berkman, & Cartwright, 2001)

Figure 1: Integrated Employment Law Parameters in the Union Strategic Corporate Campaign

Analysis

Dispute details	
USCA	<i>Profit center</i>
	<i>Growth plan</i>
	<i>Decision makers</i>
	<i>Key relationships</i>
IR enterprise ecology	<i>IR law (just cause)-CBA</i>
	<i>IR law - LMC</i>
	<i>CBA-LMC</i>
Global IR Organizations and normative institutions	<i>IR at subsidiary/joint venture micro, mezzo macro levels</i>
	<i>IR at HQ micro, mezzo & macro levels</i>
	<i>IR at global corporate IR</i>
	<i>IR at global national IR</i>
	<i>IR-NGO/INGO</i>
Campaign	<i>Campaign subsidiary level</i>
	<i>Campaign HQs level</i>
	<i>Campaign global level</i>
	<i>Type of campaign</i>
Outcome	

Notes: IR = industrial relations, CBA = collective bargaining agreement, LMC = labor management council.

Figure 2 (a – c): Comparative Employment Ecology Models of the Enterprise: U.S., Germany, and Japan

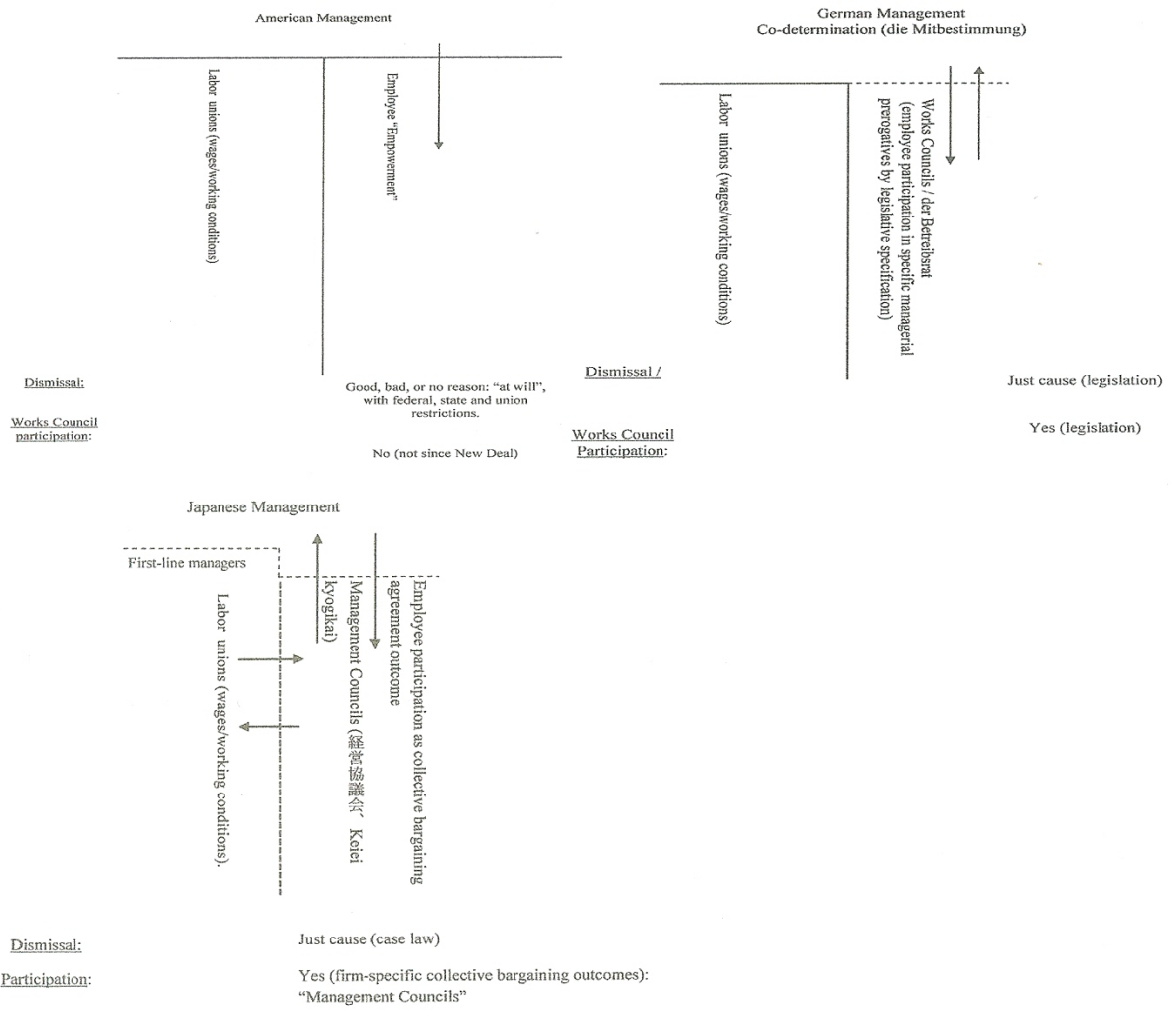


Table 1: Encyclical Analysis on Just Cause and Employee Participation

Encyclical or Vatican II Document	Year		Nature of Contract	Just Cause	Approach to Employee Participation	Particular Calls
<i>Rerum Novarum (RN)</i>	1891	Leo XIII	Living wage, able to support family (P:45)	Natural law basis (P:19)	State need to enact boards or societies to ensure labor contracts do not compel extreme work conditions.	
<i>Quadragesimo Anno (QA)</i>	1931	Pius XI	Capital has accrued too much to itself.		First explicit reference to creation of institutions "that embrace either workers alone or workers and employers together" (P:29). Partnership-contract, Sharers in ownership or management (P:65)	
<i>Mater et Magistra (MM)</i>	1961	John XXIII	Compensation not strictly a market function, to be determined by laws of justice and equity (P: 18).		Sharing Ownership (P75, 77); "...employees are justified in wishing to participate in the activity of the industrial concern for which they work (P:91)."	- Reduce CST principles into practice (P: 25). - Sharing Ownership (P: 75, 77).A6
<i>Gaudium et Spes (GS)</i>	1965	Paul VI	The active sharing of all in the administration and profits of these enterprises in ways to be properly determined is to be promoted (P:68).		Worker participation in determining economic and social conditions, in person or through elected delegates (P:68).	
<i>Laborem exercens (LE)</i>	1981	John Paul II	"Conviction of the priority of human labour over what in the course of time we have grown accustomed to calling capital" (P: 12).	"Thus, the principle of the priority of labour over capital is a postulate of the order of social morality" (P: 15).	Role of direct and indirect employers distinguished. "respect for the objective rights of the worker-every kind of worker: manual or intellectual, industrial or agricultural, etc.-that must constitute the adequate and fundamental criterion for shaping the whole economy (P:17)"	- Ethically correct labor policy. - Authentic human and social ecology of work (P:38).
<i>Caritas in Veritate (CV)</i>	2009	Benedict XVI	Principle of subsidiarity:"a form of assistance to the human person via the autonomy of intermediate bodies (P:57)."		"...business management cannot concern itself only with the interests of the proprietors, but must also assume responsibility for all the other stakeholders who contribute to the life of the business: the workers, the clients, the suppliers of various elements of production, the community of reference (P:40)."	"Profoundly new way of understanding business enterprise (P:40)."

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