

Models of National and International Regulation: A Frames of Reference Approach

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Introduction

July 8, 2014 12:12 am

EU ruling on commission pay prompts warning

FINANCIAL TIMES

By Brian Groom, Business and Employment Editor [Author alerts](#)

Companies face millions of pounds in compensation bills – and some could be put out of business – because of a ruling by EU judges that workers should be paid commission even when on holiday, the CBI employers' group has warned.

August 15, 2014 6:42 pm
Raising the minimum wage is the wrong way to deal with low pay
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FINANCIAL TIMES

August 24, 2009
Jury out on Fair Work system: employers
The Sydney Morning Herald

The Number That Many French Businesses Fear

The New York Times

By LIZ ALDERMAN JULY 23, 2014

Philippe Plantier, a seasoned French mountaineer, was rappelling a decade ago when the inspiration struck: He could start building structures, like the mammoth nuclear cooling towers, that would ascend to heights to which Mr. Plantier has never reached. But there is one number he refuses to go above: 49. When his employee head count reached that figure, he stopped hiring. Taking on a 50th person would unleash nearly three dozen French labor regulations that he estimates would cause operating costs for his company, to rise to a level that would likely lead to his bankruptcy.

Rights Group Files Complaint Over EU-Vietnam Trade Talks

VoA - News Wednesday 13th August, 2014

Herald Globe

Flexible working extended to all UK employees

FINANCIAL TIMES

June 29, 2014 1:36 pm

By Brian Groom, Business and Employment Editor [Author alerts](#)

The right to request flexible working will be extended to all UK employees from Monday, which ministers argue will help working families and boost economic growth.

Some business leaders have warned, however, that the change could cause "significant confusion", amid conflicting

Paid Sick Leave Laws Generate Concern, but Not Much Pain

The New York Times

By ROBB MANDELBAUM
Published: July 3, 2013

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Companies face millions of pounds in compensation bills, and some could be put out of business – because of a ruling by EU judges that workers should be paid commission even when on holiday.

But frequently missing from policy debates and proposals is a conceptual basis for understanding alternative perspectives on government regulation of the employment relationship, and for designing effective laws and public policies.

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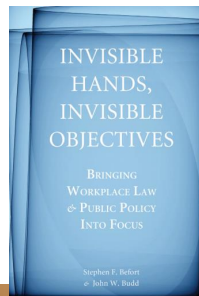
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The Number 1
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Introduction

- Frequent focus on processes and policies, not objectives
 - Law students are trained in the letter of the law and human resources students are trained in its application
 - Neither group is educated about the fundamental purposes of workplace law and public policy
- Neoliberal market ideology emphasizes markets and economic objectives and obscures alternatives
- Thus, a climate of...
 - *Invisible hands*—lack of attention to explicit **models** of the employment relationship
 - *Invisible objectives*—lack of attention to explicit **objectives** of the employment relationship



Proposition

- The rationale for government regulation of any market-based activity is rooted in the intersection of the **objectives** and **operation** of that activity
 - Econ 101: government regulation is (sometimes) warranted to correct market failures
 - This assumes specific **objectives** (efficient allocation of resources) and **operation** (self-interested, rational agents in competitive markets)
 - Different objectives (e.g., a fair allocation of resources) or operating features (e.g., individuals seeking psychological fulfillment) can yield very different prescriptions for government regulation

Overview

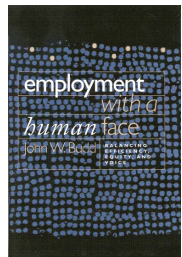
- Need explicit recognition of:
 - **Objectives** for economic activity and the employment relationship
 - **Models** of how the economy and the employment relationship work
- Usefulness
 - Analytical applications
 - Analyze, understand, compare
 - Normative applications
 - Critique, reform

Starts with
conceptual and
theoretical
explicitness =
recognition of
alternative frames
of reference

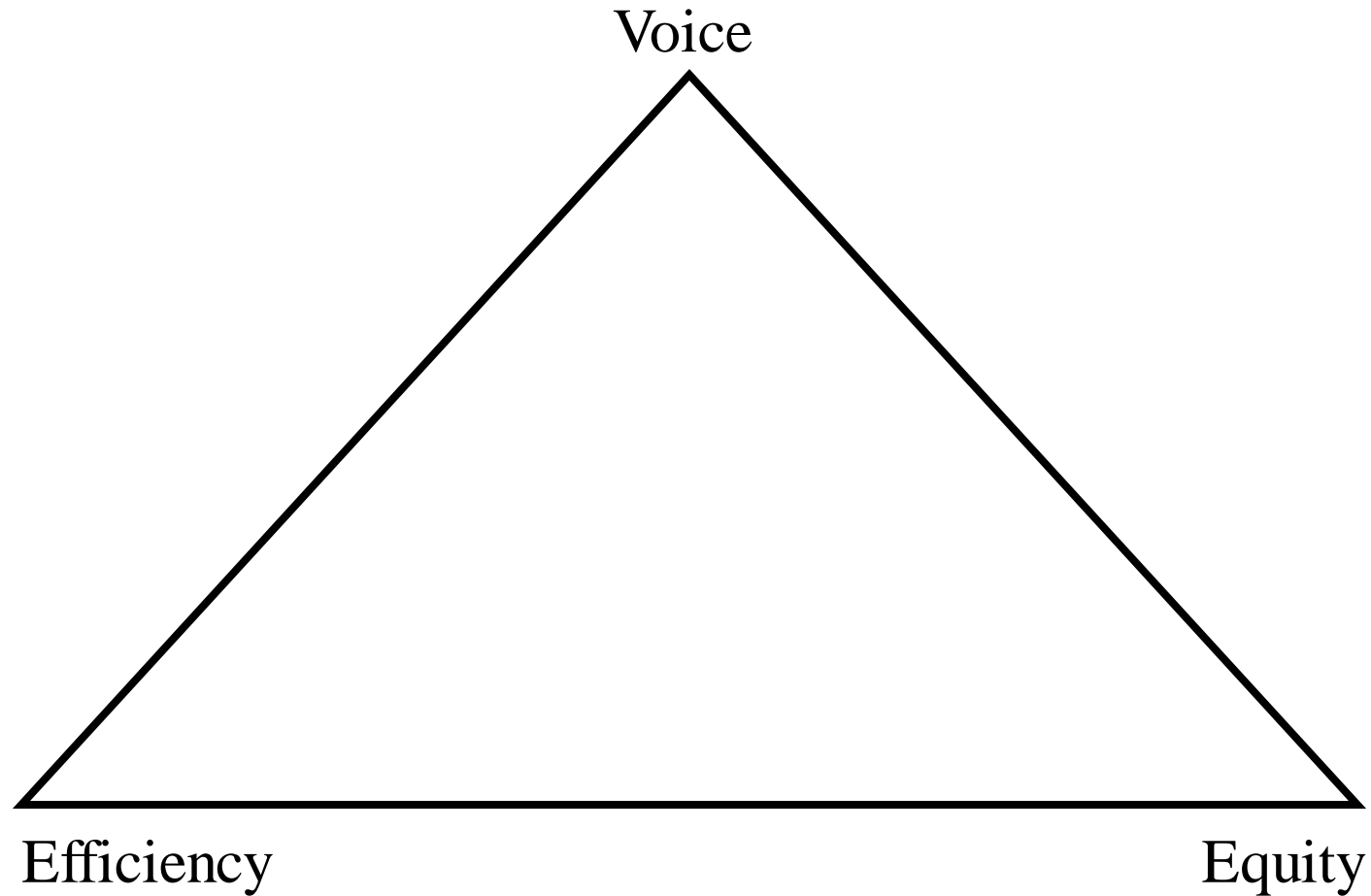
Objectives of the Employment Relationship

- Efficiency
 - Economic performance—the effective use of scarce resources (competitiveness, productivity, quality, economic prosperity)
- Equity
 - Fair employment standards for outcomes and treatment (justice, security, and nondiscrimination)
- Voice
 - Meaningful input into decisions (autonomy, free speech, industrial democracy)

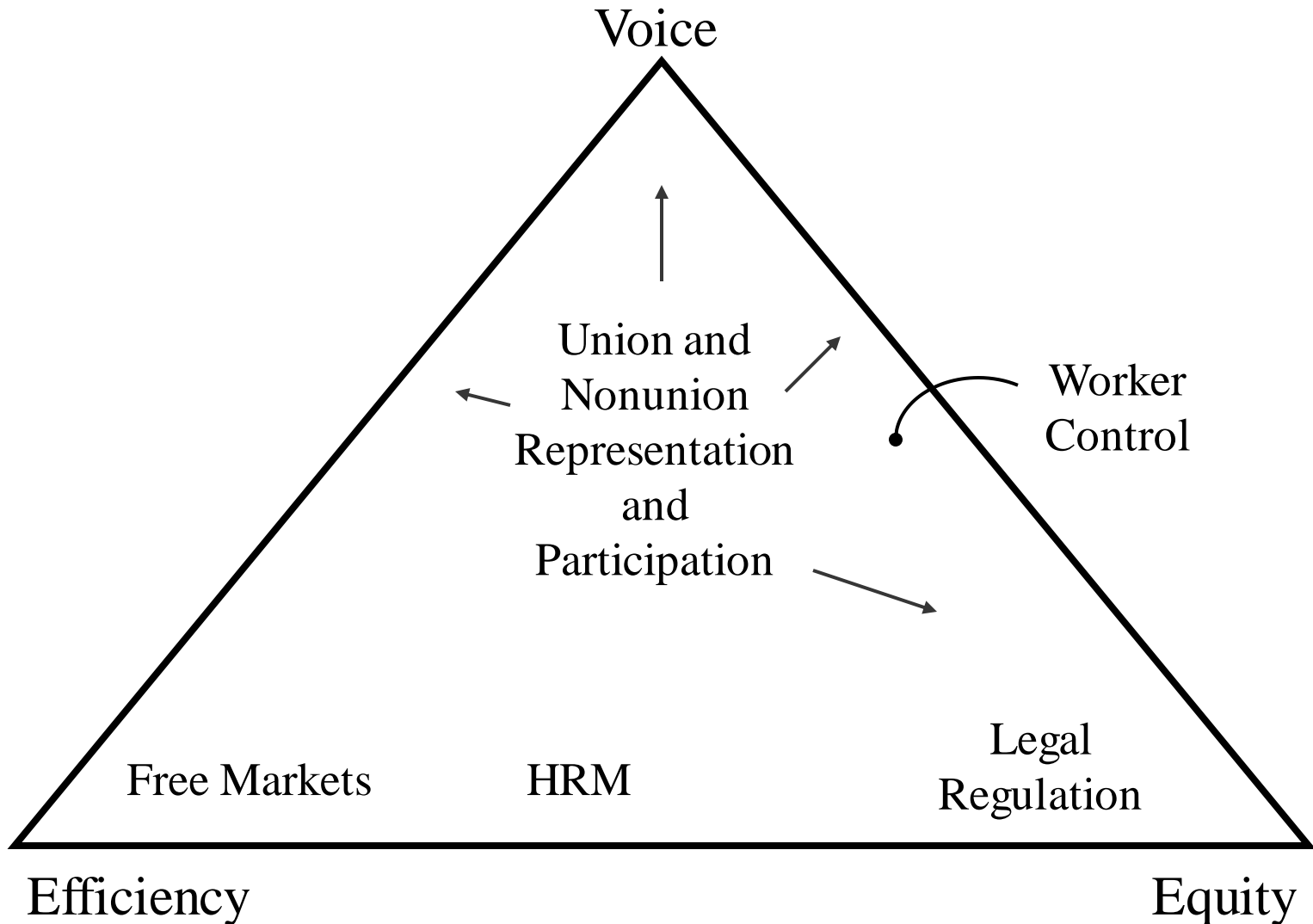
Source: John W. Budd, *Employment with a Human Face: Balancing Efficiency, Equity, and Voice* (Ithaca, NY: Cornell University Press, 2004).



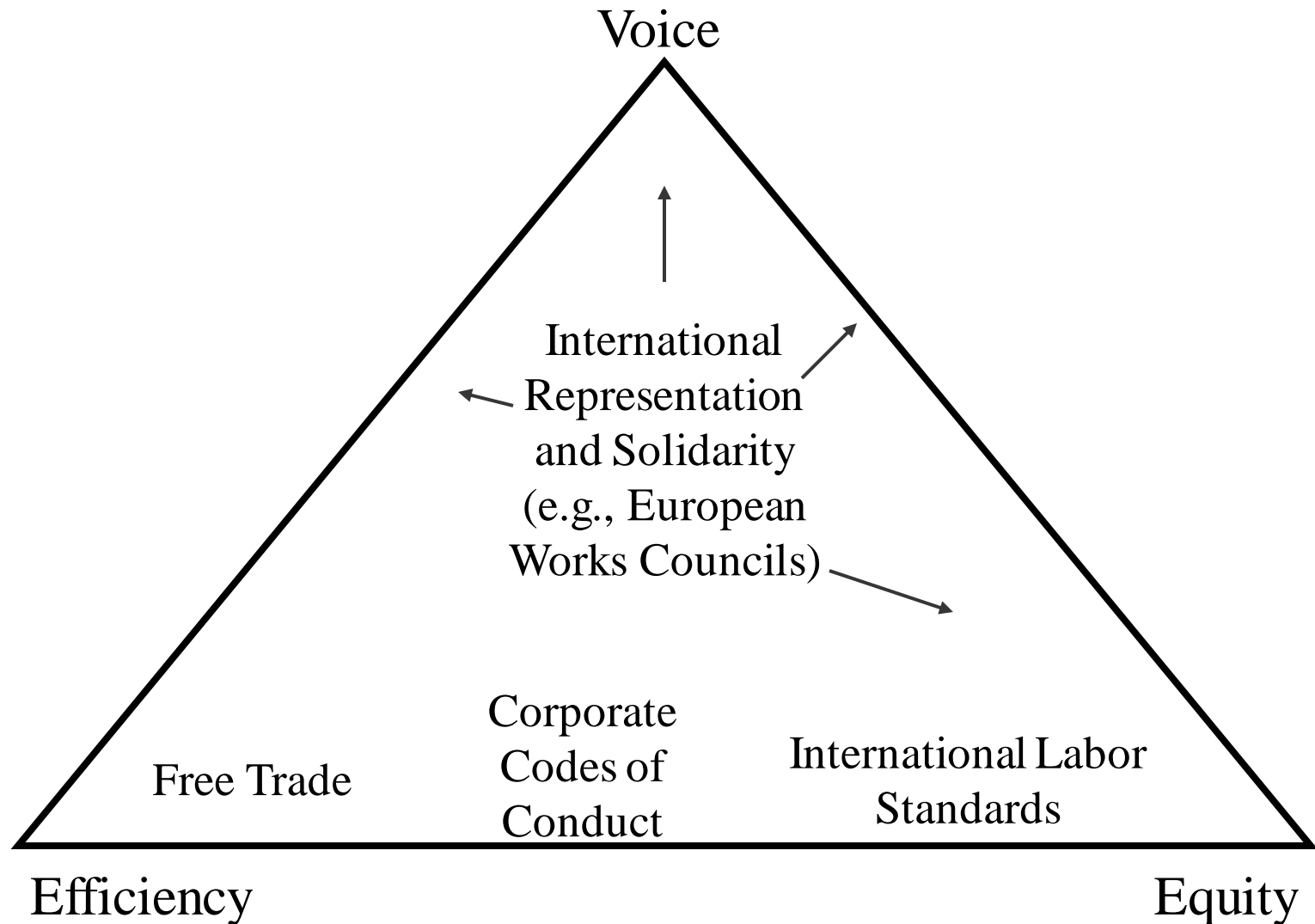
Alternative Approaches



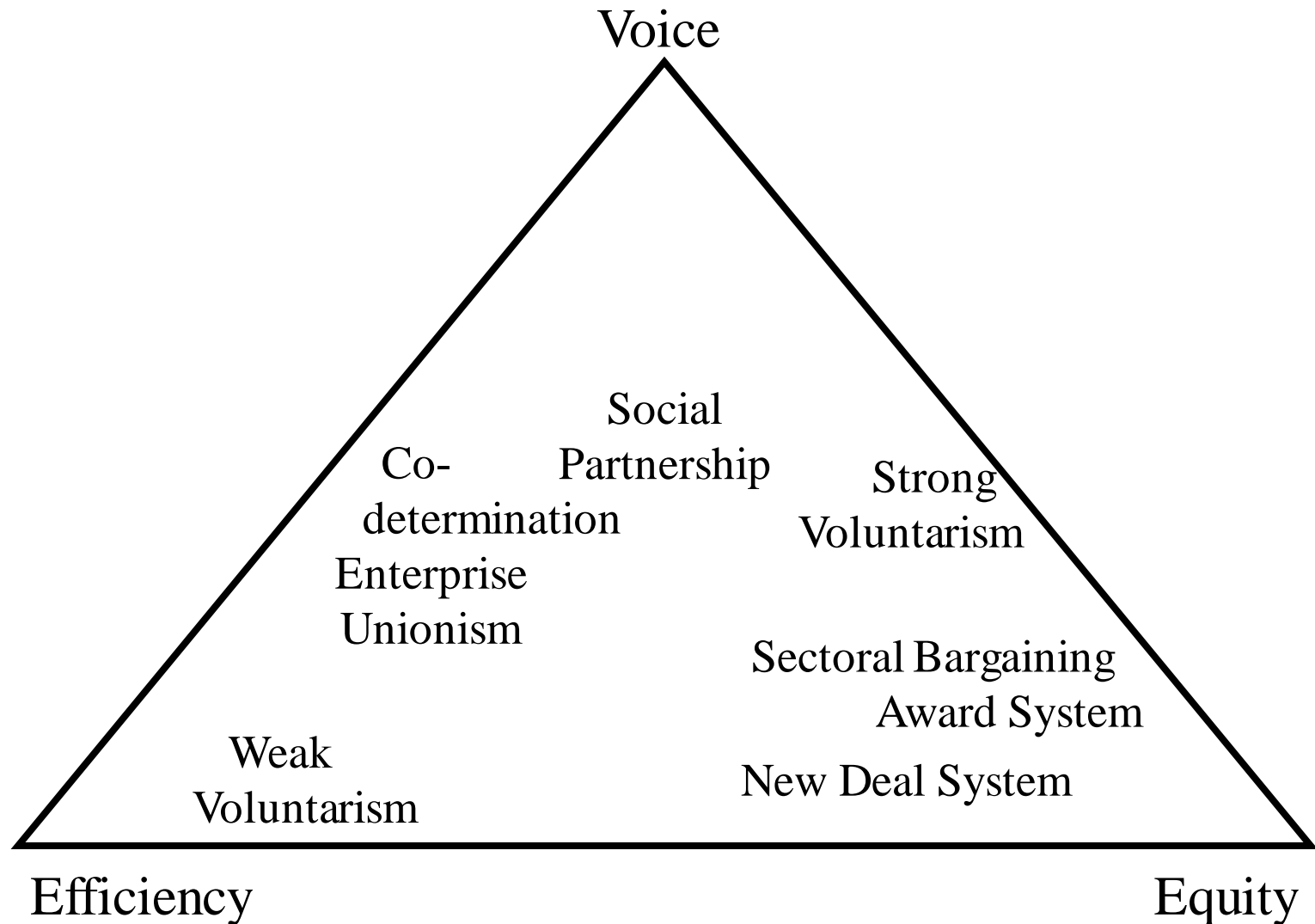
Workplace Governance



Governing the Global Workplace



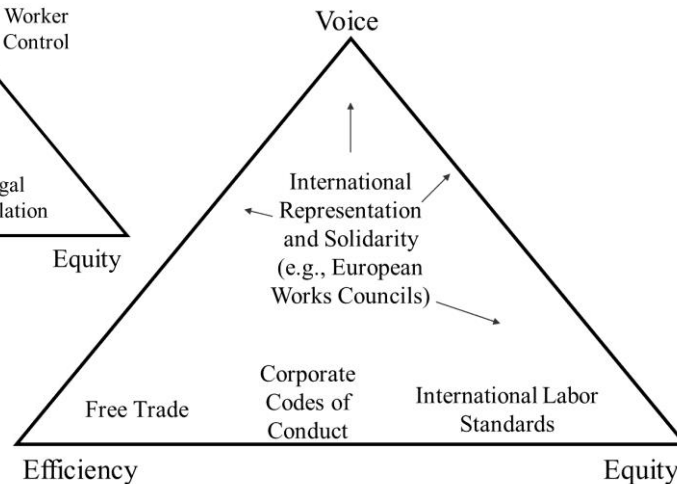
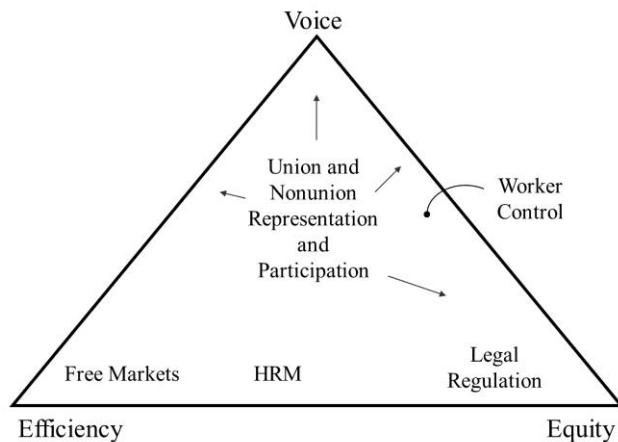
Comparative IR Systems



But It's Not Just About Alternative Objectives

Q: But why different emphases in objectives and policy approaches?

A: Alternative models of the employment relationship (at least partly)

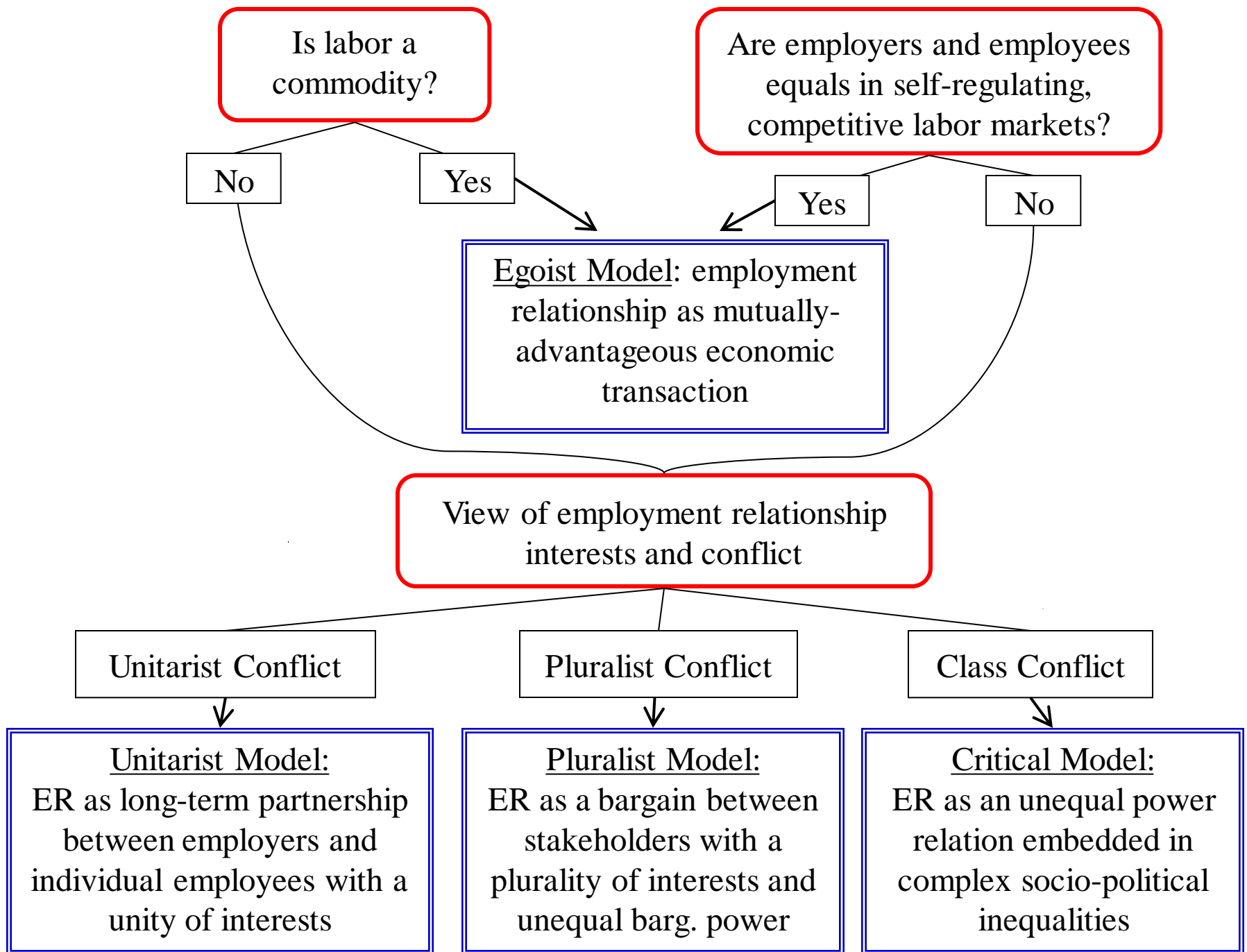


Models of the Employment Relationship

- How do we think the employment relationship works? Also the economic system
- How to model...
 - Employees?
 - Employers?
 - States?
 - Markets?
 - The interaction between all of these?

Four Models

- *Egoist* (neoclassical economics)
- *Unitarist* (progressive HRM)
- *Pluralist* (pluralist IR)
- *Critical* (radical IR)



Frames of Reference

- The four models are the key HRIR **frames of reference**
 - Egoist (neoclassical economics)
 - Unitarist (progressive HRM)
 - Pluralist (pluralist IR)
 - Critical (radical IR)
- These theories act as frames of reference which guide the perceptions, evaluations, and actions of scholars, policymakers, advocates, and others
 - Underlie support for and opposition to different regulatory models

Views on Work-Related Public Policies

Egoist	<i>Distortionary:</i> Fix market failures in the rare instances when this is not harmful; deregulation preferred
Unitarist	<i>Largely Unnecessary:</i> Effective management policies are best, though perhaps some minimal standards are useful to promote cooperation and avoid undercutting
Pluralist	<i>Important:</i> Necessary to counter corporate bargaining power and to balance efficiency, equity, and voice in democratic, capitalist societies
Critical	<i>Inadequate:</i> Can perhaps take the harshest edge off of capitalism, but with systemic imbalances, need greater socio-political changes for true reform

Stephen F. Befort and John W. Budd, *Invisible Hands, Invisible Objectives: Bringing Workplace Law and Public Policy Into Focus* (Stanford University Press, 2009).

Views on International Workplace Regulation

Egoist	Free trade is optimal; international labor standards are harmful trade barriers
Unitarist	Voluntary, self-monitored codes of conduct can effectively promote international labor standards by aligning employer-employee interests
Pluralist	Fair trade (via enforceable international labor standards) and transnational unions are necessary for redressing global imbalances in bargaining power
Critical	International working class solidarity and deep structural reforms are needed to prevent labor exploitation by globally-mobile capital

John W. Budd and Devasheesh Bhawe, “The Employment Relationship,” in *The Sage Handbook of Human Resource Management* (2010).

A Frames of Reference Approach

- Recognizing the key frames of reference helps us...
 - Achieve a deeper conceptual understanding of employment practices, regulatory approaches, and institutions
 - Improve dialogue across disciplines and schools of thought
 - Achieve a deeper practical understanding of employment practices and institutions

Confused Foundations of U.S. Work-Related Public Policies

- The U.S. system of labor and employment law is a mess
 - Areas of policy often undermine each other
 - Individually-focused employment laws undermine the collective-focused labor laws
 - Labor law emphasizes self-determination; employment law legislates uniform standards
 - No one is satisfied with the current system
- Why? Three different intellectual foundations for U.S. work-related public policies
 - Policymakers in different eras embraced distinct frames of reference

Confused Foundations of U.S. Work-Related Public Policies

- Four eras of U.S. workplace governance
 - Pre-1930s: “old deal” emphasizing free markets
 - 1930s: New Deal featuring government promotion of labor unions, social insurance programs, and minimum labor standards
 - Mid-century: rise of nonunion human resource management policies and employment law focused on individual rights
 - New century: Global era with a renewed focus on free markets and free trade

Confused Foundations of U.S. Work-Related Public Policies

- Four eras of U.S. workplace governance

»»»» • Pre-1930s: “old deal” emphasizing free markets

- 1930s: New Deal featuring government promotion

Egoist model—markets and personal responsibility

- Employment-at-will; COBRA; WARN; NAFTA; Pension Protection Act of 2006

management policies and employment law focused on individual rights

»»»» • New century: Global era with a renewed focus on free markets and free trade

Confused Foundations of U.S. Work-Related Public Policies

- Four eras of U.S. workplace governance

Unitarist model—nondiscrimination and disclosure requirements for employer-controlled terms and conditions of employment

- Civil Rights Acts; ERISA; tax incentives

- Mid-century: rise of nonunion human resource management policies and employment law focused on individual rights
- New century: Global era with a renewed focus on free markets and free trade

Confused Foundations of U.S. Work-Related Public Policies

- Four eras of U.S. workplace governance
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Pluralist model—minimum standards and balancing power between employers and employees

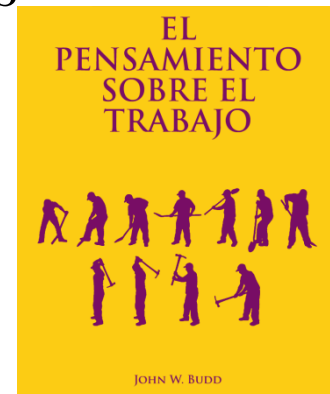
- Wagner Act (rights to unionize); Fair Labor Standards Act (minimum wages); Social Security Act (old-age pensions and unemployment insurance)

Confused Foundations of U.S. Work-Related Public Policies

- So? The U.S. system of labor and employment law is a mess!
 - Areas of policy often undermine each other
 - No one is satisfied with the current system
- Why? Three different intellectual foundations for U.S. work-related public policies
 - Need to explicitly recognize HRIR frames of reference to understand that the overall system is based on a confused set of contradictory assumptions
 - And to generate reforms that are internally consistent in multi-layered governance systems

What About Work?

- Claim: work itself has been overlooked in thinking about employment regulation
 - Work remains in the “hidden abode of production”
 - Not working conditions, occupations, job quality, etc.
 - Rather, the meaning(s) of work
- Work as...
 1. a Curse
 2. Disutility
 3. a Commodity
 4. Personal Fulfillment
 5. Caring for Others
 6. Identity
 7. Occupational Citizenship



The Implications of Meanings of Work

Work as...	Definition	Implications for Employment Regulation
A Curse	An unquestioned burden necessary for human survival or maintenance of the social order.	The nature of work is beyond our control. Acceptance of existing forms of work rather than regulation is warranted.
Disutility	A lousy activity tolerated to obtain goods and services that provide pleasure.	Work is expected to be lousy so minimal perceived need for regulation. Income, not jobs, is important so income support policies are adequate substitutes for employment regulation.
A Commodity	An abstract quantity of productive effort that has tradable economic value.	Efficient allocation of labor is foremost concern. Policies that affect labor mobility are key. Ignores unpaid and other forms of non-commoditized work.

The Implications of Meanings of Work

Work as...	Definition	Implications for Regulation
Personal Fulfillment	Physical and psychological functioning that (ideally) satisfies individual needs.	Work should be psychologically rewarding, but individual focus of this conceptualization results in an individual rather than collective emphasis in employment regulation.
Caring For Others	The physical, cognitive, and emotional effort required to attend to and maintain others.	Recognizes non-commoditized forms of caring for others as work, and draws attention to the need to include these forms of work in conversations about employment regulation.
Identity	A method for understanding who you are and where you stand in the social structure.	Sees the deep importance of work for individuals, and thereby provides a basis for substantive employment regulation.
Occupational Citizenship	An activity pursued by human members of a community entitled to certain rights.	Employment regulation can be a key method for supporting the achievement of citizenship rights.

Frames of Reference, Revisited

Egoist frame

- Embrace of free markets
- Lousy, commodified views of work
- Market-based view of efficiency, equity, and voice

Unitarist frame

- Embrace of individual employee-employer alignment
- Work as personal fulfillment and (benign?) identity
- Individual, mutually-supportive view of efficiency, equity, and voice

Pluralist frame

- Markets as imperfect; some conflicts of interest so need regulation
- Work as occupational citizenship
- Citizenship view of efficiency, equity, and voice

Critical frame

- Markets as one element of socio-political inequalities; deep conflicts of interest
- Work as deeply-human identity, citizenship, caring for others
- Prioritization of equity, and voice

Employment
Regulation



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graph TD; Egoist[Egoist frame] --> Center[Employment Regulation]; Unitarist[Unitarist frame] --> Center; Pluralist[Pluralist frame] --> Center; Critical[Critical frame] --> Center;
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Conclusions

- Work-related public policies, including employment and labor laws, need to be guided an analytical framework that includes **explicit objectives** for the employment relationship, an **explicit model** of how the employment relationship works, and **explicit meaning(s)** of work
 - That is, we need to recognize the competing frames of reference that reflect the assumptions and values regarding the objectives and operation of the employment relationship and the nature of work
 - This approach is necessary for understanding models of national and international regulation, evaluating the need for reform, and crafting new policies

Conclusion

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A frames of reference approach to the regulation of work and employment provides a needed lens for understanding alternative perspectives on national and international regulatory regimes and for designing effective laws and public policies

The New York Times
The Number That...
By LIZ ALDERMAN JULY 23, 2014
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Starting
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ates of the likely level of take-up.

The New York Times

The End

Further Reading

- John W. Budd, *Employment with a Human Face: Balancing Efficiency, Equity, and Voice* (Cornell University Press, 2004)
- Stephen F. Befort and John W. Budd, *Invisible Hands, Invisible Objectives: Bringing Workplace Law and Public Policy Into Focus* (Stanford University Press, 2009).
- John W. Budd and Devasheesh Bhave, “Values, Ideologies, and Frames of Reference in Industrial Relations,” in *Sage Handbook of Industrial Relations* (Sage, 2008).
- John W. Budd and Devasheesh Bhave, “The Employment Relationship,” in *Sage Handbook of Human Resource Management* (Sage, 2010).
- John W. Budd and Stefan Zagelmeyer, “Public Policy and Employee Participation,” in *The Oxford Handbook of Participation in Organizations* (Oxford University Press, 2010).
- John W. Budd, *The Thought of Work* (Cornell University Press, 2011).

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Is labor a commodity?

No

Yes

Are employers and employees equals in self-regulating, competitive labor markets?

Yes

No

What *should* govern the workplace?

School
Neoclassical Economics
Governance Mechanism
Competitive Markets

View of employment relationship conflict

Unitarist Conflict

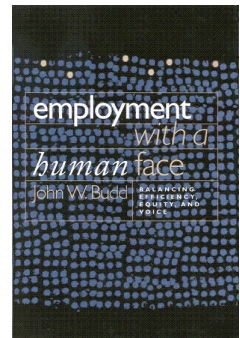
Pluralist Conflict

Class Conflict

School
Human Resource Mgmt
Governance Mechanism
Human Resource Mgmt

School
Industrial Relations
Governance Mechanisms
Government Regulation
Collective Bargaining

School
Critical IR
Governance Mechanism
Worker Control or Socialism



The Egoist Employment Relationship

ER Objectives

Efficiency is paramount. Equity is market transactions being fair. Voice is the ability to freely initiate and quit transactions.

Structural Context

Competitive labor markets. Labor as a commodity.

Compatibility of Objectives

Employers and employees have self-interest. Exchanges are consummated when self-interests align.

The Employment Relationship

A mutually-advantageous trade in a free market by self-interested economic agents.

The Unitarist Employment Relationship

ER Objectives

Efficiency is very important.
Equity and voice are necessary
for psychological satisfaction and
individual productivity.

Structural Context

Imperfect labor markets. Labor
as psychological beings.

Compatibility of Objectives

Employers and employees have
shared interests.

The Employment Relationship

A long-term partnership between
employees and employers who
share a unity of interests.

The Pluralist Employment Relationship

ER Objectives

Efficiency, equity, and voice are all important. Equity and voice are necessary for human dignity and freedom.

Structural Context

Imperfect labor markets. Labor as economic and psychological beings and democratic citizens.

Compatibility of Objectives

Employers and employees have some shared interests and some conflicting interests.

The Employment Relationship

A bargain between stakeholders with pluralistic economic interests and unequal bargaining power.

The Critical Employment Relationship

ER Objectives

Equity and voice are paramount.
Equity and voice are necessary
for human dignity and freedom.

Structural Context

Employment inequalities
embedded in pervasive
inequalities throughout society.
Labor as economic and
psychological beings and
democratic citizens.

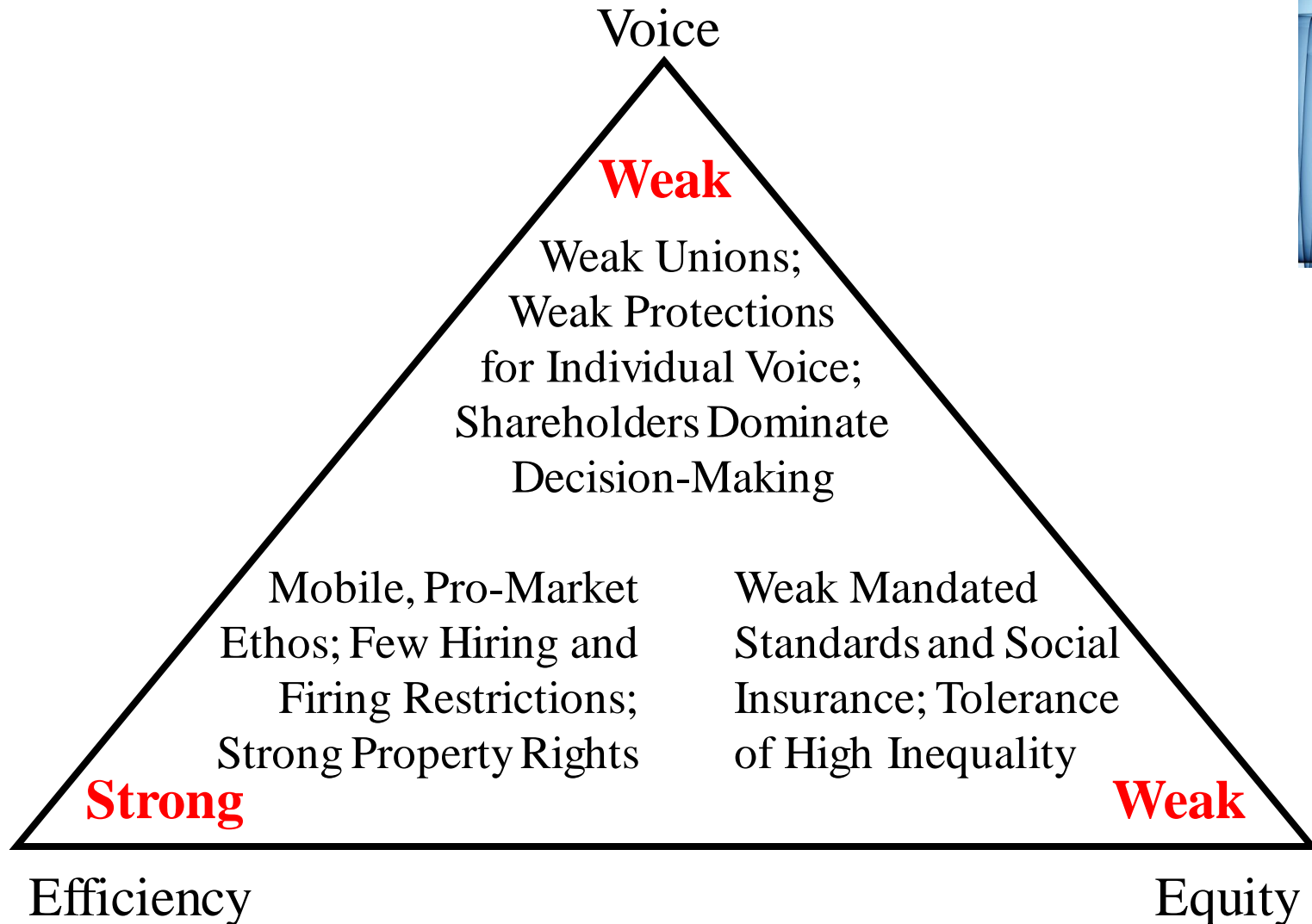
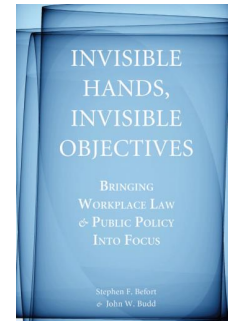
Compatibility of Objectives

Employers and employees have
antagonistic conflicts of interest.

The Employment Relationship

An unequal power relation
embedded in complex socio-
politico-economic inequalities,
and characterized by struggles
for control and accommodation.

The U.S. Scorecard for Work-Related Public Policies



Working Out a Balance

Voice

Employee free speech

Employee representation on boards of directors

Equity and Voice

Mandatory overtime ban

Health and safety committees

Strengthened protections for workers forming unions, negotiating contracts, and striking

Right to request a changed work schedule

Disclosure of employment terms and monitoring

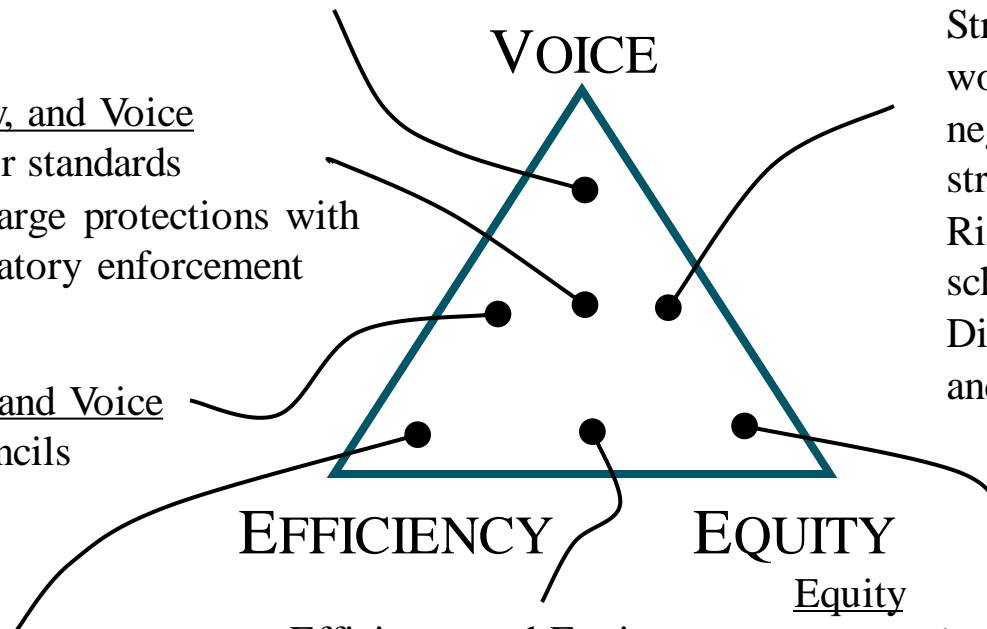
Efficiency, Equity, and Voice

International labor standards

Good cause discharge protections with streamlined regulatory enforcement

Efficiency and Voice

Works councils



Stephen F. Befort and John W. Budd, *Invisible Hands, Invisible Objectives: Bringing Workplace Law and Public Policy Into Focus* (Stanford University Press, 2009).



Enhanced UI benefits

Enhanced UI benefits

Medical standards for

Greater inclusion of