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discussion paper

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Institutional Transfer:
Industrial Relations in Eastern Germany

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Abstract

Can industrial relations be successfully transferred between countries? This paper reviews experience in eastern Germany since unification in 1990. The evidence is that the close integration in western Germany between the two elements of the 'dual system' of interest representation — trade unions and works councils — has not been replicated in the east. Hence the formal identity of institutions does not prevent substantial differences in their functioning. This may be explained both in terms of the adverse economic circumstances in the east since unification, and of the distinctive socio-cultural inheritance of the former system.

Zusammenfassung

Kann ein System industrieller Beziehungen erfolgreich von einem Land in ein anderes übertragen werden? In dem Papier wird der entsprechende Prozeß in Ostdeutschland seit der Vereinigung untersucht. Dabei wird offenkundig, daß der enge Zusammenhang des Doppel-Systems der Arbeitnehmervertretung im Westen Deutschlands - Gewerkschaften und Betriebsräte - sich im Osten nicht wiederholt hat. Ganz im Gegenteil: Die formale Gleichheit dieser institutionellen Regelungen steht substantiellen Unterschieden in der Umsetzung nicht entgegen. Dies kann sowohl durch die kritischen wirtschaftlichen Rahmenbedingungen als auch durch die starke soziokulturelle Prägung aus DDR-Zeiten erklärt werden.

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1. Introduction

Can social institutions be successfully transplanted across national boundaries? Or is their functioning so dependent on national context that in alien terrain they will wither or mutate? This question, so central to debates in sociology and anthropology a century ago, is also relevant to contemporary industrial relations. In the 1960s and 1970s, those who criticized the 'anarchy and disorder' of British industrial relations often sought alternative frameworks for industrial order overseas: the detailed legal regulation of the United States, the centralized collective bargaining of Sweden, the works council system of (West) Germany. Industrial relations academics were for the most part sceptical: the adversarial character of British union-management relations had deep historical roots, and radical institutional transformation simply would not work. The failure of the 1971 Industrial Relations Act, largely inspired by American legalism, seemed to prove the point.

Yet more recently, cross-national imitation and emulation have been important features of public policy in many countries, particularly as regards the regulation (or deregulation) of market relations and social welfare. In the context of the European Union, proposals for some form of common regulatory framework in industrial relations have become a major focus of contention, and their formulation has normally reflected existing institutional arrangements in specific member states. The adoption of a directive on European Works Councils may be seen as the eventual outcome of propositions based on the system of information and consultation of employee representatives long established in Germany.

It is thus an appropriate time to address the problem of institutional transfer in industrial relations. To do so, this article considers experience in eastern Germany since unification.¹

1.1. German Unification

Eastern Germany offers a rare example of the comprehensive introduction of the industrial relations institutions of one country into another where they were largely unfamiliar. In the former *Deutsche Demokratische Republik* (DDR) there had been no experience of an industrial relations system based on western notions of 'free collective bargaining' since before the Nazi era. Wages and standard conditions of employment within the extensive state sector were determined at ministerial level. Trade unionism was highly centralized within the *Freier Deutscher Gewerkschaftsbund* (FDGB), which was in turn integrated within the state and party apparatus. For most workers (who were almost without exception union members) its central function was to provide access to holiday and travel facilities, convalescent homes and other social benefits. Within the workplace, union representatives, who were usually members of the SED (*Sozialistische Einheitspartei Deutschlands*, or Socialist Unity Party, as the communist party was known), encouraged the achievement of production targets while also serving as a

barrier to arbitrary management action and often applying pressure on such issues as safety (Rueschemeyer and Scharf, 1986; Lang, 1992).

This system was one of the casualties of the dramatic collapse of the DDR regime, symbolized by the fall of the Berlin Wall in November 1989. The success of the oppositional citizens' movement led initially to hopes of a reconstructed but independent East Germany pursuing a 'third way' between western capitalism and 'actually existing' state socialism, a project which would include the creation of a new model of industrial relations. Such ideas were soon swept aside in the popular clamour for the immediate shift to a market economy and for unity with the *Bundesrepublik* (BRD). The elections held in the DDR in March 1990 proved a triumph for the Christian Democrats (CDU), the counterpart of the main governing party in the BRD. This was followed rapidly by a treaty between the two German governments, currency union in June, and full unification² of the two states in October 1990.

The basis of German integration was the accession of eastern Germany (with a population roughly a quarter of that in the west) to the existing *Bundesrepublik*, adding five new *Länder*³ to the eleven which it then contained.⁴ Thus unification was an asymmetrical process. The citizens of the DDR abandoned all distinctive constitutional and legal provisions, including some which might have been widely valued, and accepted all those currently applying in the west⁵: an act of 'unconditional surrender', in the words of one commentator (von Beyme, 1994: 251).

As one element of this assimilation, the complex and extensive legislative framework of west German industrial relations was applied overnight to the east. For the purposes of this article, two areas of law are centrally relevant. The German constitution, together with the *Tarifvertragsgesetz* (Collective Agreement Act), underwrites freedom of association in trade unions and employers' associations, gives collective agreements a legally binding status, and assigns trade unions a monopoly right to negotiate such agreements on behalf of employees and to initiate strike action. The *Betriebsverfassungsgesetz* (Works Constitution Act) establishes the right of workers in private establishments with five or more employees to elect a works council, which the employer must inform or consult over a wide variety of issues and which must consent to a limited range of management initiatives.⁶ The combination of collective bargaining by trade unions and workplace representation by a body required to 'collaborate in good faith' with management constitutes the framework of what is often called the 'dual system' of German industrial relations.

1.2. The German 'Dual System'

The nature and significance of this system have long been a matter of debate within Germany (Schmidt, 1971; Schmidt and Trinczek, 1991). In the 1960s and 1970s, critics on the left — both academics and trade unionists — argued that the dualism of representational structures seriously weakened labour, and that the peace obligation imposed on works councils prevented the effective mobilization of pressure on the employer at the point of production.

Other writers, notably Streeck (1979), argued that the very notion of a dual system mistook form for reality. In practice, unions and works councils were functionally integrated and organizationally interdependent. Whatever the intentions of its creators, over time the dual system had become a single system, and its integration was further consolidated by the legislative changes enacted in the 1970s. In difficult economic circumstances, the formal arrangements for workplace representation which critics had once identified as weakening labour were now perceived as a source of strength. 'The two levels of the dual system are mutually reinforcing. This structure has both sustained negotiated adjustment in West Germany and helped counterbalance the unions' waning political and market power since the 1970s' (Thelen, 1991: 16). Considering the experience of the dual system since its introduction in the east provides an opportunity to reassess such analyses and explanations of its functioning in the west.

2. The Impact of Unification

2.1. Economic Transformation

Integral to the political disintegration of the DDR was a policy commitment to transform an economy based on comprehensive state ownership and rigid central planning into a capitalist market system. Even before the March 1990 elections which brought to power a right-wing government, a process of privatization was initiated with the establishment of the *Treuhandanstalt* (literally, trustee office).

This agency was to play a key role in the subsequent fate of the east German economy. Its function was to break up the monolithic state economic system by a combination of methods: returning some establishments to former owners, finding private buyers for others, transferring some to local authorities, and closing others down altogether. As has been widely commented (Grabher, 1994; Schmidt, 1993; Seibel, 1994; von Beyme, 1994), there was no little irony in the fact that the abolition of centralized state planning was entrusted to a centralised, bureaucratic institute (with some 4,000 employees) on the model of the system it was to eliminate.

The priorities adopted by the *Treuhand* involved the rapid transfer or closure of state enterprises in a process euphemistically known as *Sanierung* (rehabilitation). In practice, many enterprises could not be speedily sold or eliminated; but the strategic objective precluded or subordinated an alternative route proposed by many actors, notably the trade unions: an extended process of assistance to firms in order that they might succeed in the new competitive environment. East German enterprises were faced with the collapse of their former 'markets' in eastern Europe, as the Soviet bloc disintegrated and the adoption of the *Deutsche Mark* (DM) necessitated payment in hard currency for east German products. Commodities which had formerly been subsidized in order to sell in western markets lost all such cushioning, while consumers in the east demanded western products which had hitherto been unattainable. Partly because the *Treuhand* policy was to break up existing *Kombinate* into free-standing units, the informal networks through which managers in the DDR evaded the inefficiencies of central planning also disintegrated (Bluhm, 1992;

Grabher, 1994; Mahnkopf, 1993b), while managements lacked the skills — in particular in marketing (Müller, 1993) — essential for survival in a market economy. Moreover, many firms required substantial investment in order to meet western standards of product quality and environmental control.

The outcome was a large-scale destruction of the former east German industrial base. The old economy dominated by giant *Kombinate* gave way to one consisting of 'subsidiaries of West German (and to a lesser extent foreign) companies plus medium-sized and small enterprises which are owner-managed' (Carlin and Richthofen, 1995: 4). Some western firms radically modernized the establishments they took over (or in some cases set up state-of-the-art production in greenfield sites, as in the Opel plant at Eisenach [Buteweg, 1995]); others were accused of buying eastern establishments simply to close them down, either in a process of asset-stripping (securing valuable building land) or to eliminate potential rivals. Many firms simply failed to survive the market shock. The outcome was a decline in industrial production of some 70 per cent and the almost total de-industrialization of some parts of east Germany (Baroth, 1994; Kempe, 1995). In addition, the *Treuhand* policy of breaking up large enterprises usually entailed the separation, and subsequent closure, of research and development activity: between 1989 and 1993, four-fifths of all jobs in this area were eliminated (Altvater and Mahnkopf, 1993: 191). A familiar characterization of the transformed east German industry is that of islands of high technology within a sea of backwardness (Schiller, 1994: 59).

Much of the analysis of this process is contentious. A slower transition to a market economy might have been more efficient, but was probably politically impossible (Rothschild, 1993: 264). Many of the dinosaurs of east German industry were too economically inefficient or environmentally damaging to be salvageable. The early decision (discussed below) to align east German wages as rapidly as possible with those in the west increased the obstacles to survival.

While in some respects the demolition of the command economy in east Germany matched the 'big bang' approach of many other east European countries, in others — as Wiesenthal (1994, 1995) has argued — the experience differs significantly from the 'shock therapy' model. Most notably, integration within a larger, economically highly successful state freed east Germany from some of the traumas which afflicted the rest of the former Soviet bloc. The painful choices in between consumption and investment, and the sharp deterioration in living standards which followed the collapse in production in other eastern countries, were cushioned in the former DDR (even though in some respects transferred to Germany as a whole). Unification was followed by an immense — and unanticipated — volume of subsidy from the west. Per capita GDP in the east rose from 31 per cent of western levels in 1991 to 50 per cent in 1995; disposable income from 47 to 70 per cent. This was possible because, in the five years after unification, transfers between the two parts of Germany amounted to DM 980,000 million, or roughly DM 50,000 for each east German citizen (Fels, 1995). As many Germans have commented, this far exceeds

in real terms the transfers received by the BRD under the post-war Marshall Plan. Moreover, but for such subsidies the collapse of east German industry in the face of the 'market shock' would have been even more catastrophic (Brücker, 1995).

2.2. The Labour Market

The disintegration of much of the former DDR economy, and the drive to increase productivity in surviving enterprises, have been reflected in a drastic deterioration in the labour market with the loss of some four million jobs (over 40 per cent of total employment before unification). The DDR constitution prescribed a right to work, unemployment was virtually unknown and activity rates (particularly among women) were considerably higher than in the west. Mass unemployment represents one of the unanticipated by-products of a market economy.

Registered unemployment rose to 1.2 million in the east in 1992 (roughly 16 per cent of the labour force) and has fluctuated around this rate thereafter. In the west the figure was 6 per cent in 1992, though this has since risen to 9 per cent. There has been a net movement of just over a million workers between the east and west German labour markets, either as migrants or (mainly in Berlin) as commuters. Job losses were also cushioned, particularly in the initial phase of economic transformation, by state subsidies for short-time workers; large numbers of effectively redundant workers were classed as 'zero-hours short-time'. Subsidies also encouraged roughly a million workers in their fifties and early sixties to opt for early retirement. In addition to a 'discouraged worker' effect, a variety of 'active labour market' programmes offering training and retraining have cushioned the official unemployment figures (Bosch and Knuth, 1993; Grünert and Lutz, 1995). State unemployment benefits and other payments to the non-employed account for the largest share of the west-east transfers mentioned above.

As a consequence of economic restructuring, the distribution of employment has changed radically. De-industrialization has meant that only 16 per cent of jobs are now in manufacturing, little more than half the proportion in the west. As a result of the post-unification building boom, almost the same number are employed in construction — more than double the proportion in the west. There has been a rapid expansion of private services, almost to western levels, while public services and administration still employ a slightly higher proportion than in the west (Kroker, 1995).

Job losses have been particularly severe among women. In the DDR, women constituted almost exactly half the labour force, compared to under 40 per cent in the west. Since unification, women have lost jobs faster than men, and have been less likely to find new employment. In consequence, registered female unemployment in the east is double the rate of men (21.5 per cent as against 10.9 per cent in 1994); in the west there is no gender difference (9.2 per cent for men and women). Women constitute 78 per cent of those unemployed for over a year, although their share of the east German labour force (discouraged worker effect?) has fallen to 43 per cent (Nickel, 1995). There are several reasons. Discrimination is

one: decisions on redundancies have often reflected the view of (mainly male) decision-makers that job security is more important for men than for women.⁷ Sectoral and occupational patterns of employment are also relevant: some of the industries suffering the steepest decline (such as textiles) employed a large proportion of women, whereas many of the growth sectors are less feminized (Maier, 1993); and enterprises in the DDR employed a high proportion of 'non-productive' and largely female clerical and administrative staff who have been hard hit by rationalization measures (Mickler et al., 1994: 270). In addition, many women in DDR days depended on child-care facilities provided by the state or the employer, and these have been drastically curbed since unification (Engelen-Kefer, 1991).

2.3. 'The Wall in Our Heads'

The slogan which inspired the drive to unification was '*Wir sind ein Volk*' (we are one people). Surveys indicate that while 45 per cent of east Germans claimed to believe this declaration in 1990, four years later the proportion had fallen to 28 per cent (von Beyme, 1994). The euphoria surrounding unification was from the outset accompanied by an uneasy sense of mutual suspicion and incomprehension between 'Ossis' and 'Wessis'. For many east Germans, disillusioned by the failure to realise their (unrealistic) hopes of a rapid and painless accession to western living standards, such negative sentiments intensified. The sense of being patronized by what were ironically termed '*besser Wessis*' (west Germans who think they know better), or even of being colonized by economic and political decision-makers determining their fate from Bonn or Frankfurt, 'made the inhabitants of East Germany feel like foreigners in their own country' (Beer and Müller, 1993: 281).⁸ At the same time, the market economy which had been welcomed as a prospective source of liberty and plenty became perceived as a cause of 'unemployment, exploitation and self-centred individualism'. This in turn helped evoke a mood of 'DDR nostalgia', a 'strong feeling of the loss of security, public spirit and social justice' (Schlaffke, 1995), and no doubt contributed to rising electoral support for the ex-communist PDS (Cramer, 1994).

'*Die Mauer in den Köpfen*' (the Wall in our/their heads): the demolition of the physical barrier between east and west, and the constitutional integration of the two states, has not proved a sufficient condition for cultural and social unification. While 82 per cent of east Germans (according to a survey in 1994) consider themselves second-class citizens, almost half of west Germans consider that they have paid too much to ease the process of unification and 70 per cent believe that 'Ossis' expect a western standard of living while still working as they did in DDR days⁹ (Jaufmann et al., 1995). Such continuing differences have inevitable implications for the evolution of industrial relations.

3. The Invention of Industrial Relations and the Development of Trade Unionism

3.1. Institutional Transfer

Any comprehensive cross-national transplantation of institutions creates a new regulatory system with whose principles and dynamics the local actors are unfamiliar. Yet to set them in motion, experienced actors are required. Thus German unification gave rise to a massive influx of western politicians and civil servants, judges and lawyers, entrepreneurs and managers, consultants and academics. Conversely, those east Germans who had taken a leading role in challenging the DDR system — often at considerable personal risk — in the early stages of societal transformation were ‘virtually frozen out’ (Wiesenthal, 1995: 21). In this respect, the feeling of occupation by a colonial power was perhaps understandable.

In industrial relations likewise, the installation in the east of the institutional arrangements long established in the old BRD was the task of a western professional elite. West German models of employers’ associations, labour courts, social insurance funds, employment offices and trade unionism were foreign to citizens of the former DDR, and their introduction became primarily the responsibility of western practitioners, accountable to central authorities in the west. The outcome was a structure which Wiesenthal (1994: 11) terms ‘asymmetrical representation’, involving ‘the predominance of external actors and their neglect of or insensitivity to “local” views or preferences’. In particular, all the parties involved in collective bargaining in the east followed priorities which were determined in the west and shaped by western interests — or at least, by a pan-German view of interest representation in which the numerical predominance of the old BRD inevitably proved decisive (Lehmbruch, 1994: 26).¹⁰

3.2. The Implantation of West German Trade Unionism

For a brief period after the fall of the Berlin Wall, it seemed possible that independent trade unionism might be developed out of the old official structures in the DDR, perhaps to merge at some later stage with the organizations in the west.¹¹ In the course of the upsurge of social protest in the autumn of 1989 there were demands in a number of industrial centres for the creation of independent trade unionism, free of party or state control. The FDGB leadership, headed by the hard-liner Harry Tisch, initially denounced all proposals for reform either within its own structures or in the DDR more generally. As protest mounted, Tisch was forced to step down (soon to be arrested for financial malpractice), other scandals emerged, and in December the whole leadership resigned. At an extraordinary congress at the end of January 1990 a new leadership was elected, and it was agreed to reduce radically the powers of the FDGB in order to establish autonomous industrial unions (on the west German model) with effective roots at workplace level.

The western confederation DGB (*Deutscher Gewerkschaftsbund*) and its constituent unions, which had previously been reluctant to interfere in the reform process in the DDR (Fichter, 1991: 24), now attempted to co-operate in the construction of new, independent trade unionism. This involved sending staff to the DDR, offering advice and information, running training courses for full-time officials and lay representatives, and ‘twinning’ arrangements between regional offices in

east and west. In May 1990 the new DDR industrial unions called for the FDGB to be completely disbanded¹² (which eventually occurred in September) and set out the objective of rapid fusion between the individual eastern and western unions (Fichter, 1991).

While some western unions had initially shared this objective, the DGB affiliates soon agreed that they would not amalgamate with any of the unions which had emerged out of the FDGB: these should be urged to dissolve and transfer their members to the western unions. There were at least four reasons. First, the DGB — politically embarrassed by the fact that it had maintained ‘fraternal’ relations with the FDGB and only belatedly supported the reform process within east German trade unionism — now attempted to distance itself from the ‘official’ DDR unions, even if now reformed. For the same reason, it was decided to make no claim on FDGB property except that which could be considered the ‘inheritance’ of the union movement which had existed before 1933. Second, detailed legal advice indicated that a simple merger between western and eastern unions would be virtually impossible (Fichter, 1993: 26). Third, the FDGB and the individual industrial unions employed a staff of several thousand, and had pension obligations to many former employees, which the western unions were in no position to take over.¹³ In addition, many of the active officials were suspected of unacceptably close involvement with the former regime and in particular the *Stasi* (secret police). Finally, there was an expectation that the still very high union density in the east — in 1990, roughly double that in the west — would prove precarious. The DGB and its member unions, faced with their own internal financial difficulties, therefore resolved to construct a ‘lean’ organization in the east.

In the still independent DDR there were many who objected to the demand to close down the new unions; the phrase ‘hostile take-over’ was in common usage (Fichter and Kurbjuhn, 1993: 53). But with German unification, all unions in the east agreed to dissolve, and urged their members to join their western counterparts. Membership applications were signed *en masse*, the process sometimes organised by workplace representatives and sometimes by full-time officials of either the ‘old’ or the ‘new’ unions (Michael Fichter, personal communication). The outcome far exceeded most expectations, bringing an increase of 46 per cent in DGB membership (from just under 8 million to well over 11.5 million).

In the main, the new union organization in the east was staffed by western officials — some of them recently retired; on average, at most one full-time official in five was an easterner. This reflected both the inexperience of east Germans in the functioning of west German institutions, and the suspicions of the political past of former FDGB officials. Any of the latter who did obtain full-time appointments after unification were required to declare formally that they had not worked for the *Stasi*, and in most cases had to stand for election by the members.¹⁴ The new officials from the west — sometimes known *Funkies* because of their mobile phones (*Funk-telephone*), unknown in the old DDR (Fichter and Kurbjuhn, 1992: 164 and 1993: 55) — were initially welcomed as ‘life-savers’, but later sometimes more critically re-

garded as members of the colonial occupying elite (Fichter and Kurbjuhn, 1992: 168-9). For their part, the westerners often felt that they were cut off in a foreign country. 'I was more familiar with Belgium or France than with the new *Bundesländer*,' the head of the DGB in Sachsen wrote later (Lucassen, 1993: 16).

3.3. Free Collective Bargaining?

Despite the extensive legal regulation of industrial relations in Germany, the principle of 'free collective bargaining' (*Tarifautonomie*) is strongly entrenched. The legislation on collective bargaining (*Tarifvertragsgesetz*) prescribes that collective agreements possess the status of legally binding contracts, and assigns trade unions the monopoly right to negotiate such agreements with employers' associations or individual companies, but in general leaves the bargaining parties free to agree (or disagree) as they see fit. As a corollary, overt government interference in wage bargaining has normally been strongly resisted, not only by the unions but also by employers' organizations.

In March 1990, shortly before the first free elections in the DDR, the principles of trade union autonomy were underwritten in a new Trade Union Act (*Gewerkschaftsgesetz*). Immediately thereafter, the DGB and the employers' confederation BDA (*Bundesvereinigung der deutschen Arbeitgeberverbände*) issued a joint declaration on the prospective economic and social integration of the two German states, which included the call for the DDR to introduce 'free collective bargaining based on independent collective associations'. The Kohl government in Bonn appeared to share this perspective (Wielgohs and Wiesenthal, 1995: 304): possibly because of its experience that 'free collective bargaining' normally resulted in 'responsible' outcomes, and a recognition that in the process of German unification the participation of independent representative organisations could perform an important legitimacy role. Accordingly, the formal treaty agreed between the two states in May specified that the provisions of both the *Tarifvertragsgesetz* and the *Betriebsverfassungsgesetz* should take effect in the east.

The priority of western unions and employers' associations alike was to transfer their familiar structure of encompassing sectoral agreements (*Flächentarifverträge*). Establishing employers' associations in the east — when the very status of independent private employers was a novelty — involved even greater problems than the reconstruction of trade unionism. In the collective bargaining rounds which began in the early summer of 1990, 'officials from the western employers' associations frequently took part as "advisers" on the eastern employers' side and were faced by well-known western counterparts on the union side' (Bispinck, 1993b: 312). This symbolized the extent to which bargaining priorities were determined from the west.

The first agreements in 1990 were normally for short periods (whereas in the west, agreements commonly last for two years), and provided immediate wage increases and in some cases provisions for job-sharing and retraining during company rationalization. In subsequent bargaining rounds, two central issues were the

level and the structure of wages. The DDR economy was marked by far lower productivity than in the west (perhaps only a third), a similar disparity in wages, a longer working week (43¾ hours, as against a typical week of 38½ hours in the west) and shorter holidays. On the other hand, rents, basic consumer goods, transport and a variety of social facilities were heavily subsidized. The latter benefits were to be rapidly eroded by the transition to a market economy and the introduction of the DM.

A de facto consensus speedily emerged between unions, employers and government in the west that there should be a rapid but phased equalization of wage rates, even though this would pose major challenges for the competitiveness of eastern industry. This implied 'a decision to accept a massive medium-term rise in unemployment in east Germany given the promise of eventual political and economic equality' (Soskice and Schettkat, 1993: 120). One reason was the fear that low-wage competition from eastern Germany would have damaging effects in the west. Another was concern that the rapid migration of workers which had followed the fall of the Wall would continue, with serious social and economic consequences, unless there was a commitment to end wage disparity. Wiesenthal (1994: 17) has referred to this as a 'misbelief', arguing that most east Germans were more concerned with job security than with high wages; but in the climate of 1990 it was a plausible belief. More generally, there was enormous political pressure for east Germany to achieve western standards of living (indeed this had been a major impetus to unification).

Pay structures in the BRD have traditionally involved separate classifications for manual workers (*Arbeiter*) and white-collar staff (*Angestellte*) — though there have recently been moves to integrate the two systems — and with the differentials within and between the two categories which are familiar in western countries. In the DDR, by contrast, the pay structure reflected a quite different value system and 'productive' manual workers might be paid more than even highly qualified technical staff, as a result of shift and overtime bonuses. The transfer of western pay structures in 1990 involved a major transformation of these former relationships.

In 1991 and 1992, collective agreements in most sectors set pay rates at between 60 and 80 per cent of those in the west,¹⁵ and reduced the working week to 40 hours. In some cases, dates for full equalization of wage rates were also agreed: for example, April 1994 in the metal industry (in the west, traditionally the pace-setter for other sectors) (Bispinck, 1992; Schmid and Tiemann, 1992).

However, the trends in collective bargaining soon had explosive consequences. The negotiating strategy of German employers' associations has traditionally been shaped by the larger companies and has thus reflected their specific economic interests; but in the harsher competitive climate of the 1990s, smaller firms have increasingly claimed that settlement levels have been over-generous.¹⁶ In eastern Germany, many companies objected that they simply could not afford to pay the increases already agreed or to meet the schedule for full wage equalization (Schmid and Tiemann, 1992: 148-9). By the summer of 1992, this led *Gesamtmetall* to demand the revision of the 1991 agreement: first, to defer the date of equaliza-

tion; second, to introduce 'escape clauses' (*Öffnungsklauseln*) which would allow firms in economic difficulties to pay below the collectively agreed rates. The federal government joined the controversy, blaming excessive wages for the economic problems in the east and threatening to legislate to include *Öffnungsklauseln* in all collective agreements should the unions not accept these voluntarily¹⁷ (Bispinck, 1993a, 1995b and 1995c).

Top-level talks between *IG Metall* and *Gesamtmittel* failed to resolve the deadlock, and in February 1993 the latter announced that it was unilaterally abrogating the 1991 deal: an unprecedented act which flouted the legally binding status of collective agreements (Bispinck, 1994: 156; Henneberger and Rosdücher, 1995: 305-6). The union was confronted by a severe dilemma. The employers' action (with tacit government support) challenged a fundamental principle of post-war industrial relations and threatened to undermine the unions' status as collective bargainers. Hence *IG Metall* was left with 'no choice but to call what was perhaps the riskiest strike in its history' (Streeck, 1994: 135): the members in the east had no experience of such action, and in a climate of virtual economic collapse they inevitably feared for their jobs. Yet the eventual decision to fight evoked an unexpectedly positive response: in April some 100,000 workers participated in token stoppages and demonstrations, the necessary strike ballots yielded majorities of over 85 per cent, and those workers (some 30,000) selected for indefinite action showed a high degree of solidarity. The dispute assumed immense symbolic importance in the east, as the first collective act of 'self-assertion as against western economic power,' a 'fight for self-respect' and a rejection of the status of 'second-class citizens' (Kempe, 1993: 60).

The outcome — in the 'Dresden compromise' of May 1993 — was ambiguous. After two weeks the engineering employers (followed a week later by those in the steel industry) formally retreated from their unilateral abrogation of the agreement, declaring that such action was 'inappropriate'. However, the union for its part conceded two important revisions to the agreement: full wage equalization would be delayed two years, until 1996; and a 'hardship clause' (*Härtefallklausel*) was inserted, permitting firms in economic difficulties to pay below the prescribed rates where a joint committee (including official union participation) so approved.¹⁸ This could be judged a success for the union, which was able to confirm the formal sanctity of agreements, but a failure for the members, since the employers' substantive demands were at least partially accepted (Kempe, 1993: 59-60; Lohr et al., 1995: 188). The sense that the union had 'sold them out' was reinforced by the eastern members' lack of familiarity with the 'logic and rituals of west German negotiations and disputes' in which union leaders (particularly in *IG Metall*) combine radical public rhetoric with a pragmatic approach to bargaining (Heering and Schroeder, 1995: 159, 177).¹⁹

The 1993 conflict and its settlement can now be seen as a watershed for collective bargaining in eastern Germany, and possibly as a precursor of trends in the west.

First, it signalled a retreat from the tripartite commitment to rapid equalization of negotiated conditions in the two parts of Germany. The pace of wage equalization has slowed, with basic pay rates in most eastern industries in 1995 between 70 and 90 per cent of those in the west. While the standard working week in most sectors had been reduced to 38 or 39 hours, the gap with the west had not narrowed and in some cases had even widened; for example, in metal-working the 35-hour week took effect in the west in October 1995. Other differences, for example in holiday and bonus payments, remain very great (Bispinck, 1995a).

Second, eastern Germany seems to have served as a laboratory for the 'flexibilization' of collective bargaining. The 1993 agreement on a 'hardship clause' in metalworking breached the unions' previous resistance to the very principle of *Öffnungsklauseln*. Another significant instance was the provision in the 1993 amendment to the Work Promotion Act (*Arbeitsförderungsgesetz*) providing wage-cost subsidies where jobs are created for the long-term unemployed on work of social or ecological value, but only if they are paid less than the wage specified in the relevant collective agreement. Despite protests that this provision was unconstitutional, the main private-sector unions reached agreements with employers which conformed with the Act (Bispinck, 1995b and 1995c). Another instance has been the willingness to agree forms of job-sharing, notably in the public sector, which involve parallel reductions in working time and in wages (Kühnlein, 1995; Tondorf, 1995) — despite union insistence in the west that working hours should be reduced without loss of pay. These initiatives can be seen as precedents for subsequent trends in German industrial relations as a whole.²⁰

Third, the coverage of collective agreements is generally regarded as far less encompassing than in the west. East German employers' associations, at least in the private sector, have experienced considerable difficulties in recruiting and retaining members and in developing policies which reconcile very different material interests (Henneberger and Rosdücher, 1995). It is commonly estimated that some 80 per cent of west German workers are in firms which are members of employers' associations, whereas estimates for east Germany put the proportion at 60 per cent or even less (Ettl and Heikenroth, 1995); and the proportion has been falling.

A by now familiar concept is *Tarifflicht* (flight from collective agreements): firms leave employers' associations in order to escape the constraints of the sectoral pay settlements, or otherwise undercut the prescribed terms even though they are members (Bluhm, 1995b: 2; Neubauer, 1995: 27; Sadowski et al., 1994: 533; Schnabel, 1995: 32). In a large-scale survey in 1994, 29 per cent of firms (46 per cent of those with fewer than 50 employees) admitted to paying below the rate; as the researchers laconically suggest, many other respondents may have been reluctant to answer honestly (Ettl and Heikenroth, 1995). Association officials — and, it is often said, those of trade unions as well — turn a blind eye to such (illegal) practice if the survival of the company seems at stake. Here too, there is widespread concern that developments in the east are precursors of trends in the west.

In conclusion, *Tarifautonomie* for east German trade unionists has been doubly qualified. From the outset, the key strategic priorities have been determined by the top officials in the west; and the formal detachment between government and industrial relations which underpins the system in the 'old' BRD was never feasible within the politically driven project of German unification. Government has inevitably been a key actor in the shaping of income and (un)employment, and its role in industrial relations has become more overt with time. The idea of 'free collective bargaining' was problematic from the start in eastern Germany, and has become increasingly so in the five years since unification.

3.4. What Do Unions Do?

If trade unions in east Germany do not function primarily as collective bargainers, what then do they do? In practice, many of the activities of the DGB and its member unions take place both beneath and above the level of collective bargaining. From the outset, much of the work of trade union officials has involved advisory and related services to individual members, particularly as concerns employment and social security law. For most east German workers, the principal value of the FDGB was its provision of services, and it is commonly argued that an 'instrumental relationship' to trade unionism has persisted (Fichter, 1994: 377; Heering and Schroeder, 1995: 176). With the massive redundancy crisis and the need to negotiate a totally unfamiliar system of employment and social security law, it is not surprising that the demand for legal advice and representation (*Rechtsschutz*) has been enormous (Heße, 1995). Most unions (the main exception has been the public service union ÖTV) contract with the DGB to provide this service for their members, and indeed the majority of DGB employees are legal specialists.²¹

Legal advice for members, and their representation if necessary before social security tribunals or in labour courts, are widely perceived as extremely valuable services. As one official commented, workers are learning that they can take successful legal action against the employer or the public authorities, which strengthens both their self-confidence and their commitment to the union (interview notes). However, there are also criticisms. The DGB, faced with severe financial problems, has been forced in the 1990s to close many of its local offices and to concentrate resources in a few major centres. In the east, this has made officials responsible for particularly large numbers of members, and staff have been barely able to cope with the flood of cases.²² Complaints abound of long queues in cramped and dingy offices, waiting for a hurried consultation with a legal specialist more familiar with the legal system than with trade unionism.

Alongside such services as advice, representation and education (particularly for lay officers), the unions perform a totally different role as political intermediaries and 'social partners'. In one respect, such functions match the established west German pattern of activities: the evolution of the 'social market' has assigned trade unions a significant 'public status' (Offe, 1981). As in many European countries, not only does the DGB nominate members of governmental advisory and ad-

ministrative committees, the unions have equal status with employers in the management of health and unemployment insurance funds, and in the operation of the labour court system.

In the west, this status can be seen as 'a continuation of the old German bureaucratic tradition which seeks to involve the representatives of "organized labour" in the day-to-day functioning of government' (Markovits, 1986: 29). In the former DDR, however, this complex of institutional arrangements had to be established from scratch, and unions have acted as co-creators: 'collaborating in the construction of management bodies for sickness benefit schemes, regional insurance funds and labour exchanges, as well as the occupational training certification committees' (Heße, 1995: 48). At local level, where representatives were directly elected by employees, the unions faced the urgent task of co-ordinating nominations and campaigning for support (Lucassen, 1993: 19). In addition, unions were represented (though with little effective influence) on the management board of the *Treuhand*.

The other aspect of political intermediation involves attempts to influence government policy at federal and *Land* level. Again, the DGB has long sought to exercise a voice on economic, social and employment issues; and given the bias towards consensus within the German political system, has been able to claim some success. In the east this function has been replicated, but again with distinctive characteristics.

First, because of the inchoate nature of the political system, 'lobbying' relationships with ministers, civil servants and counterparts on the employers' side have had to be developed from scratch, in a process of trial and error. For similar reasons, the conventional division of labour between DGB officials and those of individual unions has been less clear-cut. A forceful official of one of the large unions — in particular the *IG Metall* — might assume a higher political profile than the DGB counterpart, especially if the former arrived earlier on the scene.

Second, widespread economic collapse and mass unemployment have created an unusually powerful dynamic towards political intermediation: a key priority has been to attempt to influence governmental (*Land* and federal) policies on economic restructuring, social benefits and labour market intervention.

By mid 1990, *IG Chemie* and soon *IG Metall* were calling on the federal government to set up institutions to enable continuity of employment for redundant workers while they were taught new skills (Huber, 1991). After initial resistance by both government and the *Treuhand*, modest federal funding was provided to establish 'employment and training companies' (*Beschäftigungs- und Qualifizierungsgesellschaften*, or BQGs) which would use the unemployed for up to two years to undertake work of social, economic or environmental value while simultaneously providing retraining (Fichter, 1991). The BQGs spread rapidly, becoming 'an important labor market feature in which unions play an active role' (Jürgens et al., 1993: 241). The *Treuhand* itself established analogous bodies, 'companies for employment promotion and structural development' (*Gesellschaften für Arbeitsförderung, Beschäftigung und Strukturentwicklung* or ABSs) (Bosch and Knuth, 1993; Heße,

1995). Though criticized by many on the right as expensive and inefficient, these initiatives can be positively evaluated as ‘a negotiated compromise over how to develop job creation measures that are more than temporary manpower parking places’ (Wever, 1995: 158). For the head of the DGB in Sachsen, they represented ‘one of our central successes’ (Lucassen, 1993: 19).²³

At *Land* level, a major union priority has been to press for employment-creating (or at least employment-protecting) measures. One much-cited initiative is the ‘structural promotion programme’ (*Strukturförderprogramm*) launched in 1992 in Brandenburg under the slogan ‘work not unemployment’ (Fischer and Helmstädter, 1995; Seifert and Wagner, 1992). This has been able to draw on federal and European Union finance to employ workers on projects to improve the social and economic infrastructure and to develop advanced skills.

To a degree, such schemes may be viewed as belated attempts at damage limitation following the economic devastation of the first phase of unification. In this critical initial period, it has been argued that ‘the unions effectively failed to influence the *Treuhand*’s privatization policies’ (Lohr et al., 1995: 187). However, while the overall strategic direction of the *Treuhand* may have been immovable, unions certainly did achieve modifications in application. One instance is the experience in Sachsen, where the impact of de-industrialization was particularly severe.²⁴ Here, the unions began early in 1991 to mobilize mass protests, and in March resumed the practice of ‘Monday demonstrations’ which had contributed to the fall of the old DDR regime. Another feature of the previous democracy movement was also resuscitated, the ‘round tables’ involving citizens’ groups, churches and political organizations as well as trade unions. Factory occupations soon followed. This movement had a dual objective: modifying the process of privatization and economic restructuring to place a brake on de-industrialization, and encouraging active labour market measures. It was to achieve significant results, helping to persuade the *Treuhand* to temper its previous rigid policies and to generate a new industrial strategy for the *Land* government (Wever, 1995: 172-3).

Though the DGB claimed the credit for these developments — ‘we became political bargaining partners and asserted our role as interest representatives in the political field’, declared its local leader (Lucassen, 1993: 17) — others see this influence as primarily the achievement of the *IG Metall* head in Sachsen, Hasso Düvel. While the union attached all other eastern *Länder* to a western neighbour, Sachsen had the status of a separate region and therefore enjoyed more scope for independent initiatives. Düvel, a westerner who quickly succeeded in winning the trust of other local officials and activists, was a key figure in shaping a new industrial strategy for the region, and showed considerable skills in developing co-operative links with the *Land* government. Though led by a prominent CDU politician, Kurt Biedenkopf, the latter shared the unions’ objections to the destructive approach of the *Treuhand*, and was willing to press jointly for a different policy — with some success. The employers’ organisations, more weakly established in Sachsen than the

unions, became integrated in the development of industrial strategy somewhat later, with the formation of a tripartite economic council (Krumbein, 1992).

In discussing this process, Krumbein applies the concept of 'situational corporatism' (*situativer Korporatismus*), which he defines as 'concentrated, centralized, situationally conditioned and dynamic' (1992: 220). In contrast to the highly institutionalized system of 'corporatist' tripartism in the west, with its well-established rules of the game, Krumbein regards tripartism (or more correctly, bipartism) in Sachsen as an improvised response to a unique emergency, in which all local actors saw the need for allies to exert maximum pressure to modify the policies of the *Treuhand* and the federal government.

Two qualifications could be made to this argument. The first is that the attempts to establish formal and informal links between unions and governments in the localities and the *Länder* — most notably in Sachsen, but also apparent throughout east Germany — took place in the context of a relative vacuum of civil society. This was in itself a source of fluidity and unpredictability, and gave key individuals — in this case, Düvel and Biedenkopf — considerable scope to develop a form of personalized bipartism. The second point is that any allusion to centralized corporatism neglects the extent to which grass-roots mobilization and protest, not necessarily orchestrated from above, fuelled the pressure for a change of industrial policy. Pizzorno's notion of political exchange is relevant here: in the 'political market', unions can at times achieve results by the threat of 'withdrawal of the wider social consensus or social order' (1978: 279).

This points to a crucial function of trade unions in the transformation of east Germany: as potential guarantors of social order. Popular action — through a combination of 'exit' and 'voice' (Hirschman, 1993) — had brought the downfall of the old regime. East Germans had looked for rapid improvements in their material conditions, but now faced dislocation and disorientation. 'There was a fear of massive demonstrations and political unrest' (Bafoil, 1992: 303), and the new political institutions had not yet established their legitimacy.²⁵ The situation was so socially explosive that, without the unions, the outcome would have been completely unpredictable: this was the judgment of one union official (interview notes). This function of social and political intermediation within a fragile democracy required that unions should register some achievements of significance for their members. Conversely, the ability to mobilize protest was a factor which the political authorities (both in Bonn and in the new *Länder*) could not lightly disregard.²⁶

3.5. A Crisis of Trade Unionism?

There is a general consensus that during the period of unification the workers in the east had high — indeed, unrealistically high — expectations of the western trade unions. As has been seen, initial recruitment at the end of 1990 exceeded most predictions. In the following year the number of members in the east rose further, to some 4.2 million.²⁷ This represented a density rate of roughly 50 per cent, far higher than in the west. Moreover, the DGB unions, which represent about 80 per cent of

all trade unionists in the west, achieved a virtual monopoly in the east. The rate of unionization among white-collar workers (*Angestellte*) was very high, but very few joined the non-DGB union DAG, which in the west had roughly half a million members. The DBB, the specialist federation for *Beamte* (public employees with special security of status), with some 800,000 members in the west, claimed 200,000 eastern recruits at the end of 1990.²⁸

As the east Germany economy disintegrated, union membership then fell rapidly. By the start of 1995 it had declined to 2.6 million, a loss of 38 per cent of the peak membership in only three years (while DGB membership in the west fell by 6 per cent in the same period). Losses among young workers (aged under 25) have been particularly severe. It is notable, however, that female membership remains very high, with a density of 46 per cent as against 25 per cent in the west. Associated with this fact is the relatively high retention of union membership by unemployed workers (of whom the majority, as has been seen, are women).

Membership loss is reflected in reduced union income. This problem is compounded by the increased proportion of unemployed members, who pay only token contributions (while often making considerable demands on union services). *IG Metall* has been particularly seriously affected: not only has total membership fallen to its pre-unification level; in 1994 only half its membership of 600,000 in the east was employed (Scherer, 1995). Since the DGB and most member unions are in financial difficulties, the response is to impose economies in the organizational infrastructure in the east, which in turn risks losing further members: a vicious circle (Fichter, 1996).

Many academics and (western) trade unionists have bemoaned the passivity of eastern workers, in some cases attributing this to a 'DDR mentality'. 'East German workers have a rather instrumental relationship to the unions [which] are regarded primarily as service agencies' (Heering and Schroeder, 1995: 176; Martens, 1994: 314-5). To the extent that union membership was seen as a recipe for employment protection and a western standard of living, when labour market realities turned out so differently many members blamed their unions (Kurbjuhn and Fichter, 1993: 39). While instrumentalism might be a characteristic of many trade unionists in western Germany too (and in other countries), it seems plausible that the long-established relationship between workers and the FDGB significantly inhibited the creation of a participative 'trade union culture' in the east (Mahnkopf, 1993a: 150-1). Yet it can also be argued that the mode of introduction of west German trade unionism in the east encouraged membership passivity. Like the FDGB, the DGB unions had strong hierarchical and bureaucratic leanings with a suspicion of spontaneous, undisciplined and potentially radical grassroots activism. Those members of the citizens' movements in the DDR in the transition period who attempted to create an autonomous trade union movement received little or no co-operation from western union leaders whose perspectives involved the implantation of a pre-defined organizational model. Thus east Germans were largely excluded from an active participatory role from the very outset (Eidam and Oswald, 1993: 169, 175-6).

The catastrophic labour market situation has inevitably reduced the unions' bargaining power: 'every extra worker unemployed saps our strength,' declared *IG Metall* leader Klaus Zwickel.²⁹ As seen above, support for the 1993 strike exceeded expectations and boosted union morale; but the material outcome, putting back still further any prospect of attaining western levels of wages, was a disappointment which will make such action harder to repeat. The unions, inevitably, could not deliver an economic miracle for east German workers; the result, it is widely reported, is disillusionment.

Another feature which is commonly emphasized is the ambiguous relationship between trade unions and political action in the east. Union officials will argue that it is essential for them to engage in the political process, since policies determined at this level condition their ability to influence narrower 'industrial relations' matters (interview notes). The (west) German trade union movement has long insisted that it is politically neutral, in the sense of having no formal links with any party, but that to defend workers' interests it must intervene actively in political decision-making. This is perhaps a subtle distinction, and the historical legacy of overlapping functions between FDGB, SED and state has made east German workers very suspicious of any links between unions and politics. As suggested above, in the unstable transition years after unification trade unions in the east achieved some political influence because of their role as guarantors of social stability; as political 'normality' becomes consolidated, and in the absence of membership willingness to mobilize over 'political' questions, this influence is likely to diminish. 'Depoliticization' also applies in the context of trade unions' own priorities and programmes. In the 1960s and 1970s, the objectives of many west German unions expanded beyond the narrow bargaining agenda of wages and working hours to encompass concerns with the quality of working life and broader environmental issues. Most east Germans, preoccupied with job security and the standard of living, inevitably attach low priority to such questions (Kreißig, 1992: 257; Mahnkopf, 1993a: 154-5).

The different material position of trade unionists in east and west is manifest in other respects as well. Any trade union has to engage in a process of 'internal collective bargaining', whereby priorities are determined among the diverse and often competing interests of different constituencies. In a now integrated German economy, firms in east and west — or plants which are part of the same company — are engaged in increasingly intense competition which can range their employees in opposing camps. Mickler et al. (1994: 278) refer to 'the competition within corporations between east and west German plants with a similar product range as an increasingly important problem. East German trade unionists often report the distant response when they seek contacts with west German works councils, and even resistance when it is a question of allocating production quotas to eastern plants.' A dramatic instance was the massive protest action in 1993 against the closure of the Bischofferode potash mine, which the west German majority in *IG Bergbau* signally failed to support; there was widespread suspicion that a major

reason was that a reprieve for Bischofferode would probably have entailed a closure in the west. Thus 'alongside the customary distributive conflict between "labour" and "capital" is now a distributive conflict between "east" and "west".... This results in increasing difficulties for the unions, with eastern workers and works councils feeling that they are neither understood nor adequately represented' (Heering and Schroeder, 1995: 176-7).

Does the 'wall in our heads' exist within German trade unions? While some western officials complain about unrealistic expectations and passivity, many in the east insist that the 'blockheads'³⁰ in the central offices in the west have no real understanding of the problems and aspirations of their eastern members. Symptomatic of this cultural divide is the reform debate (*Reformdebatte*) launched by the DGB with considerable fanfare in 1990,³¹ and due to conclude with policy decisions at its 1996 congress. Though the debate was presented as a means of involving members and officials at all levels in discussing a detailed agenda of strategic and structural issues facing the German trade union movement, critics suggest that in practice it was a vehicle for cost-cutting organizational changes and for an internal power struggle among top leaders. In addition, however, the whole agenda reflected the concerns of west German trade unionists stemming from the economic and political difficulties experienced in the 1980s. 'Local DGB secretaries in the new *Länder* express a mood of impotence. They feel excluded from the reform debate and not taken seriously.... The specific east German context... is not taken into account (Fichter, 1994: 375-6).

In a period when labour movements in much of Europe have suffered severe losses, outside observers have tended to stress the relative resilience of German trade unionism. This is, for example, the central theme of a recent comparative essay by Thelen (1993) — which relegates the problems of unification to two footnotes but is otherwise in many respects persuasive. The weight of opinion within Germany itself is however far more pessimistic. Two themes predominate. First, that the strains involved in the initial construction of organization in the east and coping with subsequent decline have exposed and accentuated weaknesses in west German trade unionism — fragile links between members and officials, declining social legitimacy, organizational sclerosis — which were previously only latent (Altvater and Mahnkopf, 1993; Mahnkopf, 1993a). Second, that unification has radically intensified previous divisions and segmentations within the German labour market. Bargaining strategies which have succeeded in the past, involving co-operation with employers in technological innovation and organizational restructuring and sharing productivity gains through higher wages, benefit the 'core' employee groups who have traditionally provided the cadres of union activists and policy-makers. In representing the interests of the 'winners' in the process of economic modernization, however, unions may lack the capacity (or even the will) to act also on behalf of the 'losers' (Eidam and Oswald, 1993: 181). Implicitly, this could involve writing off the bulk of the east German labour force.

Admittedly, even pessimists propose strategies for addressing these problems, or suggest that the need to develop a trade union orientation for both parts of a united Germany presents 'not only threats, but also opportunities' (Fichter, 1994: 379). In particular, the creativity of east German trade unionists in responding to unprecedented challenges could provide lessons for colleagues in the west who seek ways to break out of old organizational routines. The future of German trade unionism is not pre-determined; but any mood of optimism seems largely subdued.

4. Workplace Representation: Form and Practice

In the DDR, workplace organization was the lowest level of the hierarchical structure of the FDGB: the union's functions were undertaken by the *Betriebsgewerkschaftsleitung* (BGL, or workplace trade union leadership). In the period of challenge to the established system, these structures were in many cases transformed: either by the election of a new BGL more accountable to the work-force, or by the formation of an 'unofficial' works council, or sometimes both.

The first works councils were elected in late 1989. The process spread rapidly, so that it was possible to convene a congress of works councils in Berlin in February 1990. The initiatives often came from radical oppositional individuals or groups, in many cases linked to the citizens' movement and familiar with the traditions of the militant council movements in Germany at the end of both world wars (Mickler et al., 1994: 272-4; Pirker et al., 1990: 51, 61-3). In some other cases, the first moves were made by management or by the old BGL, in the hope that a new structure of employee representation would help bolster their own crumbling authority (Ermischer and Preusche, 1993: 170-2).

In accordance with the treaty between the two German states, which provided for the western system of labour law (including the *Betriebsverfassungsgesetz*) to operate in the DDR from July 1990, works councils acquired an 'official' status and their coverage was generalized. However, while German law specifies that works councils *shall* be established in all firms which meet the specified conditions in terms of ownership and size, employers are not legally obliged to initiate this process unless employees formally so request. In an insecure labour market, as a union official ruefully admitted, most workers — particularly in smaller firms — are understandably reluctant to risk their employer's displeasure by taking such a step (interview notes). While there are no reliable statistics on the coverage of works councils in either part of Germany, most researchers estimate that this is significantly lower in the east than the west.

Where works councils were however established, the transition from the DDR structure based on the BGL took many forms. In some cases, the old BGL cadres managed to win election; in others, the new representatives elected in the first months of the transition became works councillors; elsewhere, a totally fresh leadership emerged. Jürgens et al. (1993: 236-7) report one exceptional case in a plant taken over by a west German company, where union activists persuaded local management to employ an experienced representative from the parent firm who

was then elected president of the works council. One common feature, which clearly distinguishes experience in the east from that in the west, is the prominent role of white-collar staff (Martens, 1994: 317). Qualified engineers played an important part in the formation of the early 'wildcat works councils' (Lohr et al., 1995: 195), and often dominated the subsequent official structures (Ermischer and Preusche, 1993: 172). For example, in eight of the twelve plants studied by Kädtler and Kottwitz, the works council president was a member of the white-collar staff, and this category was also over-represented among full-time works councillors (1994: 26-7).³²

4.1. *The Pressures of Survival*

The *Betriebsverfassungsgesetz* took effect as the privatization drive was in its early stages, with the former *Kombinate* being broken down into smaller units. Thus the first works councils faced an environment of radical uncertainty, in two senses. First, the future of the enterprise was precarious: it was not known whether the firm would be sold as a going concern, and to whom, or whether it would be broken up further, 'downsized', or closed altogether. The fear of closure was the overriding concern of managers, workers and works councillors alike (Kädtler and Kottwitz, 1994: 25). Second, these unprecedented challenges had to be confronted through unfamiliar institutions and in circumstances where even west German experience offered little guidance. The 'rules of the game' had to be invented.

As the privatization process continued, so the circumstances of different enterprises became more differentiated. Jürgens et al. (1993) distinguish four categories: plants which had been taken over by a western corporation and integrated into its overall operations, thus enjoying relative security; those owned by or linked to a western company, but less securely placed; more precarious establishments either still awaiting a purchaser, or struggling to survive as independent firms; and those almost certainly doomed to closure. The texture of industrial relations inevitably varied according to the economic context.

Over time, as the issue of ownership became resolved, as the 'losers' closed down and as patterns of industrial relations became established in the survivors, so the role of works councils often altered. Hence Ermischer and Preusche (1993) periodize developments as follows: the rise of the early, 'unofficial' movement; the consolidation of official works councils after July 1990, a phase during which various job security agreements were in force; coping with the avalanche of closures and redundancies from the summer of 1991; and, they suggest (1995) on the basis of later research, the development of more 'normal' relationships once privatization and restructuring had been completed.

Despite inter-firm variations and changes over time, case studies of east German works councils present a markedly similar picture of the impact of economic insecurity on plant-level industrial relations. After a brief phase in which some of the early works councils adopted a militant, oppositional stance, the dominant pattern became one of co-operative relationships with management, born of adversity and uncertainty. In some cases it meant that the initial leadership, with roots in the citi-

zens' movement of 1989, was displaced (Martens, 1994: 317; Ruppert, 1994: 299-301). A variety of related concepts (such as *Notgemeinschaft* or *Überlebensepakt*) became familiar as a means of indicating that the force of desperate circumstance obliged parties with otherwise opposing interests to co-operate for the sake of mutual survival.

For firms to survive — either by operating independently or by finding a western purchaser willing to maintain production — the demands of profitability through enhanced quality and reduced unit labour costs have been paramount. This has translated into three central imperatives: productivity, modernization and the elimination of 'surplus' labour.

Jürgens et al. (1993: 236) summarize the first objective of the works councils which they studied as 'mobilizing the work force to work hard and flexibly, to convince top western management to invest more in their plants'.³³ This has ironical echoes with the role of union representatives in the DDR: then the union acted as 'transmission belts' of party and plan, now the works councils had to function as 'transmission belts' of market competitiveness.

Works councils have commonly acted as the main initiators of new product, production and marketing strategies. Particularly in plants still managed by the old DDR personnel — often appointed for reasons of political reliability rather than practical ability, and lacking any experience of competing in a market economy — councillors have often possessed considerably greater expertise, both because of their technical qualifications and the training received from the union: 'many of the works council representatives at this point would make better managers than the managers running our companies,' commented one *Treuhand* official (Wever, 1995: 170).

One of the first initiatives of some of the new councils was to press for changes in management personnel: to remove those who were seen as 'red socks' and introduce more technically qualified personnel, in particular with marketing skills. In the final months of the DDR, the collapse of the old political authority structure created a 'power vacuum' at workplace level and allowed exceptional opportunities for such changes (Lungwitz and Preusche, 1994: 234; Ruppert, 1994: 296-8). These were at times pushed through by workplace assemblies and elections, in a few cases resulting in the choice of works council leaders to take over the management (Ermischer and Preusche, 1993: 173).

Subsequently, councils have usually co-operated actively with new (sometimes western) managements in the process of 'rationalization' and 'modernization' (though not invariably so: see Wever, 1995: 171). A typical finding is that they have 'developed numerous constructive initiatives for increasing the economic efficiency of the firm' (Ruppert, 1994: 307). A positive orientation to new production methods has doubtless been reinforced by the strong presence of technical experts on the councils (Mickler et al., 1994: 276).

Most difficult of all for the experience of eastern works councils has been the process of handling massive redundancies. In the main, they have accepted the in-

evitability of drastic cuts in employment if the enterprise is to survive at all. Their role has then been to negotiate the terms of the process: who is to be selected, what provision to make for those dismissed (with the creation of different types of 'employment company' a major demand). In addition, some councils acted in effect as a substitute for a personnel department, offering individual advice to those affected by redundancy (Mickler et al., 1994: 275-6; Ruppert, 1994: 302).

In the period of privatization, many councils attempted to put pressure on the *Treuhand* to avoid particularly drastic cuts in the labour force and to favour prospective purchasers who offered the best prospects of sustained employment. 'The legal status of works councillors enabled them sometimes to take a more rigorous stand towards the *Treuhand* than managers could, who were subordinated to it.... In some cases works councillors succeeded in avoiding *Treuhand* decisions that would have been damaging for the plant, or in revising these decisions by spectacular actions such as plant occupations' (Ermischer and Preusche, 1995: 58). At times, councils in conjunction with trade union officials might themselves locate investors whose plans seemed advantageous (Bluhm, 1995b: 5).

The introduction of new owners and managements has not eased the problem of job insecurity. Often the councils have been faced by a succession of redundancy waves, with the partial closure of company activities, until only a rump of employees remains (Kempe, 1995a and 1995b). In general, efforts to apply 'social' criteria in selection for redundancy have achieved uneven success. Thus works councils often attempted, at least in the initial phase of crisis, to protect those whose labour market position was most precarious or whose need for employment was greatest — single parents, older or disabled workers (Kreißig and Preusche, 1992: 618) — whereas managements insisted on the need to retain the younger, higher-skilled categories of employee whose labour market position was most favourable. The resulting compromises tended to reflect 'a coalition between management, works councillors and core skilled males' to the advantage of middle-aged craftsmen (Katharina Bluhm, personal communication). Workplace representatives have often been caught between the logics of competitive efficiency and social responsibility, and increasingly faced by new managements with a hard-nosed commitment to the former (Ermischer and Preusche, 1995: 59). The task of works councils became 'a labour of Sisyphus. Hardly has a socially tolerable outcome been achieved for one wave of redundancies than the next arrives, offering ever less room for manoeuvre' (Heering and Schroeder, 1993: 173). The result has been at best 'a kind of social damage limitation' (Röbenack, 1992: 197).

4.2. Co-operation, Co-Management and Collusion

The role of German works councils is not easy to define: they are autonomous representatives of employees (by contrast, say, to French works committees which are joint employee-management bodies); but they are subject to an absolute peace obligation and are required to 'collaborate in good faith' with the employer. The *Betriebsverfassungsgesetz* 'gives only a broadly defined, formal and legal framework,

within which the individual and collective actors at company level have considerable discretion in constructing their interrelationships' (Keller, 1993: 69); 'the real conditions of bargaining and constellations of interests... can differ considerably from the legal norms' (Röbenack, 1992: 196). Hence 'the relationship between works council and management is of an ambivalent nature' (Müller-Jentsch, 1986: 225).

The logic of the 'works constitution' is that management and employee representatives should seek mutually beneficial, 'positive-sum' solutions to workplace issues: in other words, should engage in what Walton and McKersie (1965) term 'integrative bargaining'. Streeck has argued (1992: 164) that the functioning of workplace co-determination involves 'a *mutual incorporation of capital and labor* by which labor internalizes the interests of capital just as capital internalizes those of labor, with the result that works council and management become subsystems of an integrated, internally differentiated system of industrial government which increasingly supersedes the traditional pluralist-adversarial system of industrial relations'.

This may sound a trifle metaphysical: for a works council to sustain the principles of integration (seeking consensual solutions with management to common problems) and differentiation (representing the distinctive interests of the workforce) involves walking a tight-rope, and can result in many different modes of action (Kotthoff, 1981). These might be distinguished in terms of the classification which Walton and McKersie (1965: 185-8) have proposed for the analysis of 'relationship patterns' between management and unions: a continuum running from conflict through containment-aggression, accommodation and co-operation to collusion ('a coalition in which they pursue common ends'). For Walton and McKersie, what differentiates co-operation from collusion is that in the latter the interests of the constituents are no longer effectively represented. Some accounts of workplace industrial relations in east Germany may seem to imply such a pattern, with the economic objectives of management assuming overriding priority for the works council.

The term 'co-management of the cuts' (*Abwicklungs-Komanagement*) is used by Ermischer and Preusche (1993: 185) to denote the subordination of all other objectives to the survival of the enterprise, in however truncated a form. For managers, such collaboration has helped to legitimate painful decisions and reduce the risk of employee resistance. 'Many managers were convinced, referring to the cuts in personnel which had been accomplished, that workplace restructuring would have been far more difficult without active works council support... "If you can win over the works council, then you have won over the work force," was the judgment of one personnel manager...' (Lungwitz and Preusche, 1994: 233-4). The dynamics of collaboration in the interests of mutual survival could become self-sustaining. Kädtler and Kottwitz (1994: 28) note that even 'when for the third or fourth time a new final wave of dismissals was announced, this was not necessarily the occasion for a tougher approach; the impression was that this would be mischievous or reckless, an abdication of responsibility which would damage the company'. As the president of one works council insisted, 'if the existence of the enterprise was at

stake, we started from the fundamental principle: there must be no conflict' (Kempe, 1995a: 47).

Collaboration could be facilitated when the local managers were of eastern origin, so long as they were perceived as competent and their political background was not a source of friction (Ermischer and Preusche, 1993: 186). Within the DDR there was commonly collusion between management and work-force to develop a 'shadow economy' in order to escape the constraints and inefficiencies of the centrally determined plan. In this climate, the two sides formed a 'plan fulfilment pact' (Bluhm, 1992: 48-9) or 'community of solidarity' (*Solidargemeinschaft*) against the external authorities (Heering and Schroeder, 1995: 165) which could be sustained in the new circumstances.³⁴ Eastern managers tend to receive far lower salaries than those appointed from the west, live near the workers and drive relatively modest cars: by contrast with the *Wessis* there is a sense of shared material interests.³⁵

Co-operation in the pursuit of competitiveness could encourage a mutually reinforcing process of distancing from the work-force — who 'considerably overestimated a works council's scope for negotiation and decision' (Lohr et al., 1995: 197) (as they also overestimated the power of the trade unions). However, there is little evidence of active opposition to the role of councillors as 'co-managers'. The fact that redundancies occurred incrementally meant that the 'losers' — who were often from the more marginal and least assertive categories of the workforce — might on each occasion be in the minority. In any event, it seems that most workers accepted the 'economic compulsion' behind painful decisions. And more generally, the familiar diagnosis of 'passivity' may be recognized in this context also. 'The long socialization in the workplace under the conditions of the planned economy acts as an obstacle to active opposition: many workers expect those in positions of authority to exercise a distinct degree of autonomous leadership' (Lang, 1992: 69). One might speak of a vicious circle of powerlessness: most works councils lack a perspective of 'activating and aggregating the workplace potential for collective action' (Kädtler and Kottwitz, 1994: 29), most workers lack a perspective of engaging spontaneously in such action.³⁶

The dominant — though not universal — mode of action during the process of company restructuring has thus involved internal compliance, whether in the form of 'co-management', a 'workplace loyalty pact' or simple passivity (Lohr et al., 1995: 201-8). Internal co-operation could be reinforced by episodes of externally directed protest action: Ermischer and Preusche (1993: 185) refer to a 'growing "alliance" of works councillors, management and work-force against the dominant external factors (primarily the strategies and policies of the *Treuhand*, but also *Land* and local governments, banks and so on)'. Collaboration with management could 'far exceed the requirements of the Works Constitution Act' and result in 'dissolving the boundaries between employee representation and managerial functions' (Kempe, 1995a: 46). For a British observer, there are interesting parallels with the experience of worker co-operatives in the 1970s: in the struggle to save their firm from closure, workers' representatives actually *became* management. The logic of such incorpo-

ration into a unitary management team is however that the scope for independent representation of separate employee interests disappears.

4.3. Workplace and Union

The corollary of close integration with management is detachment from the outside union. In west Germany it has indeed long been common to speak of 'company egoism' (*Betriebsegoismus*): a tendency for works councils to give overriding priority to domestic interests, even where this involves flouting external trade union policy. However, in the west such tendencies have been held in check by a variety of processes and institutional mechanisms. Works councillors, and in particular those in leadership positions, are overwhelmingly union members; they tend to play an important role in the local decision-making bodies of their union; and they depend on union assistance for advice and training. Over time, mutual understandings typically inform the integration of the two formally distinct institutions of council and union. In addition, unions possess their own mechanism of workplace representation through the election of *Vertrauensleute*,³⁷ who in many larger firms possess a separate committee structure (*Vertrauensleutkörper*) which often liaises closely with the works council. In particular, this body can effectively act on behalf of the council in organizing strikes and other pressure tactics which the latter is legally prohibited from initiating.

Though works councils are legally required to co-operate with the unions represented in their establishment, and may not reach agreements which conflict with the collective agreements applicable to their firms, there are no effective sanctions against 'company egoism'. Hence practice can vary considerably. Schmidt and Trinczek (1991: 182-8) identify three models of council-union relations, which they term fusion, conflicting loyalties, and detachment. In the first, the works council acts as the extended arm of the union, whose policies shape their attitudes and actions. In the second, councillors attempt to act as 'good trade unionists', but at times experience a conflict of interests given their concerns for the welfare of the firm. In the third, company-level perspectives predominate, and the union is viewed only as an external provider of services.

Most researchers suggest that, in the east, the second and third models predominate: 'numerous problems have thwarted the attainment of the same high level of cooperation between unions and works councils generally existent in the old Federal Republic' (Fichter, 1996). Though union membership among works councillors is even higher in the east than in the west (Martens, 1994: 315), a dominant 'trade union orientation' is exceptional (Kädtler and Kottwitz, 1994: 30). Hence, for example, 'a series of studies confirm that only in a few firms have *Vertrauensleutkörper* been successfully established, with the capacity to mediate between the unions and their members and also to transmit rank-and-file opinions to the unions' (Lohr et al., 1995: 192). Kädtler and Kottwitz (1994: 31) report from their own research that in the metal industry, those *Vertrauensleutkörper* which had been formed had normally disappeared within a couple of years; in chemicals they ex-

isted more widely, but in most cases appeared to be inactive; while Ermischer and Preusche (1993: 188) conclude from their extensive study in Sachsen that 'the workplace presence of trade unions through *Vertrauensleutekörper* structures is marginal, in many firms which are now medium-sized there are no active *Vertrauensleute*'.³⁸

The majority of researchers tend to diagnose 'a rupture between works councils and the trade union hierarchy' (Lohr et al., 1995: 192). Some critics also suggest that the dominant position of technical specialists implies a 'proximity to management interests' and inhibits the development of a robust 'trade union consciousness' (Lohr et al., 1995: 193).³⁹

Two specific consequences are, firstly, collaboration in the undercutting of collectively agreed conditions where this is considered essential for the survival of the firm (a process mentioned previously). Secondly, works councils may adopt policies which are legally permissible but which conflict with official trade union policy: for example, agreement to 'flexible' forms of working (such as weekend shifts) which the union is resisting. In particular, the motor industry in eastern Germany is sometimes regarded as a testbed in which western companies can experiment with 'Japanese' forms of work organization to which western works councils refuse to agree (Mickler et al., 1994; Buteweg, 1995). The overriding emphasis on meeting planned output norms in DDR times often necessitated multiple-shift working or even continuous production, whereas such practices were exceptional in the west. Struggling to maintain the existence of their firms, eastern works councillors simply could not understand their union's objections to such arrangements (Mickler et al., 1994: 278). The current normality in the east can make continued resistance in the west impossible.

The consequence is often a contradictory relationship. Jürgens et al. (1993: 235) report 'close collaboration... in works council-union relations' in the firms they studied; but also note (239-40) that 'in their willingness to make concessions (such as weekend work and night shifts) and their close collaboration with management, [councillors] came into conflict at times with representatives of the *IG Metall* and western works councils'. In firms whose future was precarious, councillors 'said that they would do what was necessary for their own work forces regardless of the wishes of the national union'. The tensions between councils and the outside union which are often noted in studies of west Germany, the authors add, 'can only be magnified when union leadership from one political culture encounters works council leadership from another'.

A more general background factor emphasized in a number of studies is a reaction against the subordination of the BGL to the outside union in the days of the DDR. This encourages a determination to protect the independence of the works council offered by the formal provisions of German law: there is often 'an allergic reaction to trade union "meddling" in their activities (Fichter, 1994: 378). Elsewhere, the behaviour of councillors who 'strictly distinguish their role within the firm and

their membership in the union' is perceived by union officials 'as schizophrenic' (Bluhm, 1995b: 3).⁴⁰

4.4. Towards 'Normal' Modes of Action?

It is important not to compare east German reality with an idealized stereotype of works councils in the west. The image of the west German council as a tough negotiating partner, linked to a strong system of *Vertrauensleute* and closely integrated with the outside trade union, derives from studies of large workplaces, mainly in metal-working, in a period of economic security. There have always been very different realities, particularly in smaller firms, and some would argue that the system as a whole is altering as economic difficulties intensify.

As has been seen, experience in the east is likewise diverse. The question can thus be asked: if and as the economic situation in the former DDR becomes stabilized, will works council action there converge with that in similar establishments in the west?

Even in the period of maximum crisis, not all east German works councils were passive or collaborative. There exist left-wing currents which have some influence in works councils. In addition, some workplace representatives took a prominent role in protests against the terms of the 1993 settlement in the metal industry (Wever, 1995: 171). Lohr et al (1995: 204-5) refer to a more independently-minded and militant type of council, the 'loyal opposition': while still attaching priority to company survival, works councillors have become frustrated by their limited success in defending their members' interests and become readier to act militantly to secure compromises closer to their own aspirations.

Criticism of 'acquiescent' works councils may also have been one reflection of broader east-west frictions; Martens (1994: 320) reports that such views are strongest among officials in the west, while officials in the east emphasize 'that there exist a whole series of active lay representatives with whom it will be possible to establish stable trade union work in the medium and long term'. Certainly the very notion of 'company egoism' can evoke an angry response from eastern works councillors (Ruppert, 1994: 307-8). In the DDR, the workplace was often central to the social and economic identity of the surrounding community. After unification, maintaining a particular establishment in existence — even if only in attenuated form — could still be of major material and symbolic importance for a far wider constituency than its employees alone. Hence many works councils have displayed 'a marked sense of responsibility for the interests of a whole region' (Kreißig and Preusche, 1992: 619).⁴¹

The situation is not static. One scenario of change is that where a western corporation has taken over an enterprise, installed professional managers and invested in new plant, the *Notgemeinschaft* born of a struggle for survival may be seen as a thing of the past (Kempe, 1995a: 46); and differences in the pay and working conditions of eastern and western employees of the same company may increasingly provoke discontent (Martens, 1994: 321). It is also possible that, in less

favourably placed firms, a reciprocal hardening of attitudes may set limits to the continuing acquiescence in redundancies (Ermischer and Preusche, 1995: 60-1). In the process, the early distancing between works councils and unions may be transcended (Ruppert, 1994: 304).

At this point it is impossible to determine whether increasing convergence, or substantial continuing differentiation, will mark the functioning of works councils in east and west. Any account can only provide 'an interim assessment of an historical process of institutionalization and learning and the associated relationships of power and authority' and must give due weight to a variety of 'contradictory trends' (Röbenack, 1992: 208-9). What is clear, however, is that the construction of workplace industrial relations in the east can no longer be analysed as a special case; what emerges in the former DDR 'has repercussions on the whole system of trade union interest representation in Germany' (Kluge, 1994: 258). To deploy an old concept, the issue is one of uneven and combined development within a single formation.

5. Conclusions

Two key themes emerge from research into east German industrial relations: first, that the institutions of representation by trade unions and works councils do indeed constitute a 'dual system', since the functional integration apparent in the west has not developed to any comparable degree; second (and partly in consequence), that each operates in a distinctive and less effective manner. After their initial successful recruitment, trade unions are losing members rapidly, and have failed to establish a role as collective bargainers. They perform an important function as counsellors to individual workers, but one which they can ill afford; and their influence as political intermediaries is likely to wane as political structures become more stable. Works councils are less extensively in place than in the west, are far more distant from the unions, and are under immense pressure to agree to the (potentially competitive) undercutting of the provisions of collective agreements.

There are two main modes of explanation (not necessarily mutually exclusive — indeed many commentators deploy both): cultural and material. The starting point of the former is the emergent character of formal institutions: to paraphrase Durkheim, there is a non-institutional element in every institution. Offe, in discussing the transformations in eastern Europe, has emphasized that 'institutions embody normative intuitions or principles.... The relationship between institutions and moral norms is, however, not unilateral, but reciprocal' (1994: 1). Beliefs, values and expectations which develop over time — often reflecting a particular material context — affect the functioning and meaning of institutional arrangements; in one sense of the term, they themselves become institutionalized. It follows that though institutional forms can be transplanted overnight — as was the case with German unification — their outcomes may be very different from those in the country of origin, for their functioning 'must rely on cognitive and moral resources which... are not to be created by administrative fiat' (1994: 2).

The evolution of the west German 'dual system' of industrial relations — or its transmutation into a unitary system — can be interpreted in this light. The character of that system at the time of unification was the outcome of decades of interaction, a mutual learning process, among the parties involved: it 'was created and consolidated not according to some master plan, but in fits and starts' (Thelen, 1991: 63). As a corollary, 'the law as such merely sketches a framework for action.... In the old BRD, labour relations functioned not primarily because there was a serviceable labour law, but because explicit and implicit agreements between the actors arose through long experience and interaction' (Heering and Schroeder, 1995: 161).

In the east, 'the quasi "imported" structures and institutions required, and require, "filling out" by the relevant actors, calling for considerable adaptation and learning.... This process did not, and does not, occur without problems and conflicts' (Lohr et al., 1995: 196-7). Inevitably, this 'filling out' has been informed by the cultural heritage of the DDR: the status of work and the workplace, the articulation between politics and economics, the modes of social negotiation of production and employment issues. Whether through the persistence of former patterns of interaction, or reaction against these, the real functioning of western institutions in the east has been shaped by this distinctive heritage. The key analytical (and practical) issue, within this perspective, is whether a process of cultural assimilation, leading to a convergence of institutional outcomes, can be anticipated — and within what time scale.

The material explanation for difference stresses that the 'normal' production relations which have framed the operation of industrial relations institutions in the west have been altogether absent in the east: 'the fundamental economic premises of west German labour law are invalid in east Germany'. The task of responding to the collapse of production and employment 'hopelessly overtaxed' both the formal institutions and the actors operating within them (Heering and Schroeder, 1993: 171-2). In the west, institutions of collective interest representation became consolidated within the framework of a 'social market' which provided employment security for most individual workers. In the absence of this 'normal employment relationship', it has been impossible for these institutions to function effectively in the east (Matthies et al., 1994: 32). The whole industrial relations agenda has involved, not a 'positive-sum' co-operation in achieving economic growth with occasional distributional conflict over the proceeds, but rather a desperate search for 'least-worst' outcomes in which any kind of organized conflict appeared unacceptably destructive.

From this perspective, the key issue is whether, and when, a 'normalization' of economic and employment relations in the east, and hence a convergence of material conditions in the two parts of Germany, can be anticipated. Here the balance of opinion seems to have swung from the predominant optimism at the time of unification to a far more sombre prognosis.

Indeed, most current scenarios of convergence tend to predict the 'easternization' of the west rather than the 'westernization' of the east. On this reading, in-

stitutional mutations in the former DDR depict the future for industrial relations in Germany as a whole: 'we are witnessing a process of institutionalization with its own internal dynamic, whose outcome remains very unclear and which can be expected to have an impact on the whole of the enlarged BRD' (Martens, 1994: 311). Here, the argument is often that the resilience of west German institutions of employment regulation in the 1980s was already deceptive. The 'production concepts' which contributed to competitive success in previous decades were becoming far less effective in much tougher global markets, leading (albeit later than in many other countries) to creeping de-industrialization and rising unemployment. Trade unions were failing to accommodate to a changing labour force. And employers' pursuit of flexibility was making the company and workplace increasingly the key site of employment regulation. On this analysis, unification highlighted and intensified previously latent problems in German industrial relations, resulting in sharper segmentations in the labour market and a more fundamental disjuncture between the institutions of interest representation inside and outside the company.

The remainder of this decade will be decisive in demonstrating the relative accuracy of the conflicting analyses current both in academic debates and among practitioners. It is as yet unclear how far the German labour movement itself has the strategic capacity to play a significant role in shaping the future of industrial relations in a united Germany. Whether it can transcend its own internal segmentation may be crucial for the outcome.

6. Notes

¹ This article stems primarily from a study visit in the summer of 1995. I am most grateful to David Soskice and his colleagues at the Wissenschaftszentrum Berlin for their hospitality; to Michael Fichter at the Freie Universität Berlin for constant advice and assistance; to Helmut Wiesenthal and Katharina Bluhm at the Humboldt Universität, and to Rudi Schmidt, Christoph Köhler and colleagues at the Friedrich-Schiller-Universität, Jena; and to those trade unionists who spared time from their busy schedules to talk to me. None of the above can be held accountable for eccentricities in my analysis. I am also responsible for translations from German sources.

² There is no politically neutral terminology for this process: resonances which are only subtle in English are far stronger in German. To speak of *Vereinigung* (unification) can be to indicate that what happened was the joining of two legitimately existing states to form a Germany which was new both geographically (no previous state had possessed the same borders) and constitutionally (by comparison with any German state before 1945). To use the term *Wiedervereinigung* (re-unification) is implicitly to question the legitimacy of the post-war re-drafting of the political map of Europe, and in some cases to evoke nostalgia for a pre-existing 'Greater Germany'. Conversely, some who wish to emphasise the asymmetrical nature of unification use the term *Anschluß*, previously applied to the annexation of Austria within Nazi Germany.

³ Any translation of the term *Land* would be misleading, except perhaps to those whose constitutional point of reference is a federal polity comprising semi-autonomous regional units.

⁴ As well as the incorporation of Brandenburg, Mecklenburg-Vorpommern, Sachsen, Sachsen-Anhalt and Thüringen within the BRD, east Berlin was merged with the existing *Land* of (west) Berlin. Thus it would be more accurate to speak of five and a half new *Länder*.

⁵ The one exception was the (temporary) retention of more liberal abortion laws in the east.

⁶ The German system also provides three different mechanisms of employee representation on the supervisory boards of larger companies, as an integral component of the system of 'co-determination' (*Mitbestimmung*). In this paper I do not consider the application of these provisions in eastern Germany. It should be noted that while Streeck (1992: 151-8) stresses the development in west Germany of a close and mutually reinforcing integration of co-determination in the workplace (involving the works council) and at enterprise level (with employee and union representatives on the supervisory board), Martens (1994: 322) reports much weaker integration in the east.

⁷ Altvater and Mahnkopf (1993: 206) speak of 'real-patriarchal crisis management'.

⁸ A symbolic expression of such external determination was the enforced re-naming of streets, sometimes (as in east Berlin) against the fierce resistance of local inhabitants (Flierl, 1994).

⁹ Westerners have tended to blame low levels of productivity in the east on the 'laziness' of workers there (Müller, 1993). While such stereotypes neglect other sources of productivity differences between east and west (outdated equipment, weak management organization, shortages of materials and components), it is indeed true that with the virtual absence of unemployment in the DDR, first-line managers had few sanctions against recalcitrant workers (Bluhm, 1995). This gave the latter a certain 'passive strength' (Lohr et al., 1995: 197): 'they pretend to pay us wages, we pretend to work' was a well-known east European joke. Since unification, management pressure to sustain continuous high effort levels (*Leistungsdruck*) has caused complaints on the part of eastern workers.

¹⁰ At the same time, representative organizations in the east have typically been heavily subsidized from the west; see, for example, Boll (1994).

¹¹ Two key sources for this early period are the analysis and documentation compiled in early 1990 in Pirker et al. (1990); and the report of the research project (involving fifty extensive interviews with officials and activists of the transition period, conducted in 1992, as well as documentary analysis) by Fichter and Kurbjuhn (1993).

¹² By coincidence, the writer was visiting the FDGB offices in east Berlin on the day that it was decided to remove the 'F' from the giant initials above the front entrance.

¹³ These issues were the subject of an internal DGB report in May 1990; I am grateful to Michael Fichter for a copy of this document. For a summary, see Kempe (1990).

¹⁴ For an interesting insight into how the criteria of acceptability were applied, see the debate surrounding the election of the assistant secretary of the DGB in Sachsen in 1994 (*Zweite Ordentliche DGB-Landbezirkskonferenz: Protokoll*, 28-33).

¹⁵ Because many firms in the west (particularly larger ones) are able to pay above the contractual rate, the disparity in earnings was often larger.

¹⁶ This resulted in 1993 in a sharp toughening of policy within *Gesamtmittel*, the metal industry employers' association which tends to set the agenda for the whole private sector.

¹⁷ A proposal of doubtful constitutionality which was not pursued further.

¹⁸ This provision was significantly more restrictive than the escape clause originally demanded by the employers. In practice, few companies have resorted to this procedure; but as indicated below, large numbers have breached the collectively agreed terms regardless.

¹⁹ An additional factor encouraging feelings of betrayal was that the compromise settlement coincided with revelations that the president of *IG Metall*, Franz Steinkühler, had been engaging in insider share-dealing: a scandal which forced him to resign.

²⁰ This was demonstrated most strikingly in the call for an 'alliance for jobs' by the *IG Metall* president, Klaus Zwickel, at the union's conference in November 1995. Here for the first time he explicitly accepted that wage restraint could contribute to job creation, and also offered to agree to the recruitment of long-term unemployed at rates initially below the collectively agreed minimum (a principle which the more right-wing *IG Chemie-Papier-Keramik* had accepted in its 1994 agreement). The notion of job-sharing through wholly or largely uncompensated reductions in the work-week was accepted in the Volkswagen agreement at the end of 1993, and generalized in the west in the 1994 settlement.

²¹ *Rechtsschutz* is also a major function of the DGB in the west (where it is also common for officials and activists to complain of members' 'instrumental' attitudes): throughout Germany it employs over 500 legal specialists, and describes this as 'the biggest chamber of advocates in Europe' (Christ, 1995). However, legal advice and representation are far more crucial in the east than in the rest of Germany.

²² For example, in Sachsen — the largest east German DGB region — 40 legal staff handled 23,245 labour court cases in 1992 and 674 social security appeals (DGB Landesbezirk Sachsen, *Geschäftsbericht 1992/1993*: 31).

²³ For a case study of the operation of one such company in Leipzig see Kletzin and Welz (1994).

²⁴ Other important examples of influence on the *Treuhand's* privatization plans were in Mecklenburg-Vorpommern (Katharina Bluhm, personal communication).

²⁵ A number of easterners who were elected to office in the 1990 elections were subsequently alleged to have been *Stasi* collaborators.

²⁶ It is interesting here to compare east German experience with the account by Daley (1992) of the relative success of French unions in mobilizing political protest against closures in the steel industry.

²⁷ The following membership data are all taken from Fichter (1996). I am grateful to the author for a preliminary draft of this paper.

²⁸ It has not subsequently published separate figures for members in the east. Its scope for recruitment was limited by the fact that *Beamte* status did not exist in the DDR, and was introduced only slowly after unification. It seems likely that many of the DBB members in the east were actually civil servants and other government staff drafted in from the west. The Catholic union federation CGB, with 300,000 members in the west, made negligible progress in the east.

²⁹ Quoted in Scherer, 1995: 22.

³⁰ *Wasserköpfe*: literally, 'water-heads' (hydrocephalics), a term of abuse formerly applied to the ruling elite in the DDR; the term also implies a top-heavy bureaucracy.

³¹ For detailed discussions see Leif et al. (eds.) (1993) and Silvia and Markovits (1995). *IG Metall* had earlier, in 1988, organized its own 'future debate' (Schmidt and Trinczek, 1991: 190-1).

³² The law prescribes that in larger firms, a number of works councillors (varying according to the size of the establishment) shall be released full-time for their work as representatives. Since manual and white-collar employees have to be represented on works councils in proportion to the composition of the labour force, the findings of Kädtler and Kottwitz imply that works councils composed primarily of manual workers nevertheless select a leadership from professional staff. In west Germany, by contrast, the leading positions normally go to skilled manual workers.

³³ They define the other three main objectives as pressing for technological innovation and training programmes; proposing new methods of organizing production; and promoting employment companies.

³⁴ As Bluhm puts it (1992: 53), in some firms the 'plan fulfilment pact' became transformed into a 'productivity and modernization pact'.

³⁵ This point was emphasized by Markus Pohlmann and colleagues at Jena on the basis of their research into management in Thüringen (interview notes).

³⁶ It is important to recall that workplace resistance played no significant role in the downfall of the DDR regime: as has often been noted, what took place was a revolt of consumers rather than of producers, involving individual exit as much as collective voice.

³⁷ Literally: 'trust people', commonly but misleadingly translated as shop stewards. Unlike stewards in many British firms, *Vertrauensleute* have no negotiating functions and serve primarily as a channel of upwards and downwards communication.

³⁸ By contrast, Jürgens et al. (1993: 234) write that in the six plants they studied, 'shop steward structures, based on rank-and-file elections, existed or were in the planning stages, in collaboration with local union offices and with works councils'. However, this research focused on large plants (where *Vertrauensleute* are most likely to be found) and was undertaken in 1991-92, when links with the official union apparatus may have been closer than today.

³⁹ Altwater and Mahnkopf (1993: 208-9) and Mahnkopf (1993a: 159-60) suggest that the experience of works council leadership, and the training received from the unions, can provide

a career route into senior management for technical staff whose opportunities were blocked under the old regime.

⁴⁰ 'We are the works council, that is the *IG Metall*,' was how one full-time union official described this attitude (Ruppert, 1994: 304).

⁴¹ See also Bafoil (1992: 302-3); Ruppert (1994).

7. References

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