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THE GERMAN WAY:

Still Treading the Path of Institutionalized Labour Relations?

Abstract. The editor decides if all chapters should have an abstract. If an abstract is desired, the font size should be 8 pts.

1. INTRODUCTION

The mercurial growth of the New Economy in Germany at the end of the 1990's set off much speculation about whether this was the beginning of the end of the German system of labour relations. Characteristic of The booming New Economy seemed to herald a dynamic shift from the industrial sector to the (tertiary) services sector, fueling both the fears of the unions and the hopes of neo-liberals that the end of the "Deutschland AG" (Hank 2000), the corporatist system of inclusive interest negotiation, was close at hand. While the unions scrambled to establish a foothold of representation¹ in a sector where management-controlled employee relations rather than negotiated collective labour relations are the rule (Schmierl 2001; Itermann/Abel 2002), Hans-Olaf Henkel, the voice of the German Confederation of Industry at the time, was motivated to announce with his typical self-assuredness that "nobody wants our model anymore" (Henkel 1997).

The collapse of the New Economy boom in 2002 halted much of the speculation regarding the sector's immediate impact on further economic restructuring and on the resulting effects such changes would have on the complex and highly regulated system of labour relations in Germany. But that by no means signalled a return to the normalcy of a stable and institutionalized system of interaction between the organized interests of capital and labour which the label "German model of labour relations" had come to suggest earlier. Indeed, the difficulties which the collective regulation of employment relations faced in the New Economy were generally symptomatic of the problems which have affected the German model increasingly since the 1980s. Indeed, recent conflicts such as the strike debacle suffered by the *IG Metall* in eastern Germany (2003) and the subsequent employer offensive for longer hours of work seem to have exacerbated the situation. Both actors' choices and long-

term socio-economic structural changes are forcing adjustments to the system, increasing its existing diversity and reshaping its functionality.

This paper will explore the state of affairs and reflect on the restructuring of the German model of labour relations under the impact of national, European and international changes. What are the major political and economic factors affecting labour relations in Germany and how are they influencing the system? Who are the important organizational actors, what are their foremost problems and how are they reacting strategically? Finally, what kinds of changes may be evolving, and what are the prospects for their negotiated settlement?

I will argue that economic regionalization (in an expanding European Union) and globalization are undermining the institutional foundations of the German system of labour relations and causing the actors to redefine their organizational positions and their strategic choices. While institutional resiliency is still prevalent, offering a still widely-accepted referential base for the actors involved, the system of labour relations is facing increasing pressure to devolve collective regulation to the enterprise or plant level, thus embarking on a transformation process with far-reaching organizational and strategic ramifications for the established procedures and power relationships within the national context. Political deregulation and technological advances have stimulated a dynamic growth of opportunities for cross-border expansion of even smaller firms. With the deregulation of the labour market, pressures from labour migration and foreign competition, and the dismantling of the Fordist welfare state, a new relationship is in the making between nationally oriented and anchored trade unions and internationally operating business interests. Consequentially, both the interaction of the "social partners" with each other and with government, and the institutional context in which this occurs is marked by the introduction of new – both proactive and reactive – and in part, contradictory strategic interests. In the ensuing centrifugal-centripetal "push-pull" struggle, the historically embedded balance of power – an asymmetrical partnership – is being reframed with far-reaching consequences for the organizations and representatives involved as well as for the system as a whole. The "German Model" of labour relations as a particular national construct is undergoing a permutation, the outcome of which will depend not only on global political and economic structural change, but also on the strategic choices and opportunities pursued by unions, employers and government in Germany.

After an introductory review of the German model of labour relations and its characteristics in the context of its historical development, the paper will discuss the controversial issue of the "erosion" of the model (Artus 2001; Hassel 1999; Hoffman / Jacobi / Weiss 1998). This will lay the groundwork for a presentation of the major national, European and international developments affecting the model. With these trends in mind, I will then turn to the actual problems and issues of conflict such as membership decline in the unions and the employers' associations, the extent and depth of decentralization in collective bargaining, the problems of neo-corporatist social pact policy and the political controversies surrounding demands for a reform of the system. In conclusion, I will sketch out possible trajectories of change in the near future. Are labour relations the Achilles heel of stability, growth and competitiveness as Germany confronts the demands of a globalizing environment?

What future is there for trade unions? Will they degenerate into mere "transmission belts of transnational competition" (Altvater / Mahnkopf 1995: 101) or can they actively be involved in and influence the shape of industrial relations and the goal of economic democracy in the years to come? And what is the future of employers' associations? Will they end up – actively or passively – dissolving themselves, as some of them have threatened to do?

2. THE DEVELOPMENT OF THE GERMAN MODEL OF LABOUR RELATIONS

The success of the West German economy in overcoming the devastation of World War II may certainly be attributed to a favourable international political and economic setting. As the rift between the Western Allies and the Soviet Union grew, West Germany was drawn into the American camp to contribute to the anticommunist effort and present a showcase of affluence and success. In principal, the consolidation of a stable political democracy and the building of a powerful export economy based on the concept of the social market economy (*soziale Marktwirtschaft*) proved to be a most solid foundation in fulfilling this role (Smyser 1993).

One of its key elements has been a reliable and functional system of representation by the organized interests of labour and capital. The rebirth of trade unions after 1945 was geared to creating a participatory role for labour in securing economic and political democracy. For their part, the employers laboured under the legacy of the responsibility of German capital for the debacle of Nazism and war. To counter labour's bid for a potentially dominating role they offered extended recognition and a share of responsibility and decision-making power. Thus the constraints of historical legacy on the employers' side and the desire for participation on the unions' side intertwined to produce a "reconstruction pact" (Niethammer 1978), an historical compromise of mutually accepted and beneficial arrangements. This high level of political recognition was institutionalized and consolidated during the first three decades of the West German state. Its main institutional and organizational elements are:

(1) The German constitution (Basic Law, Art. 9.3)

A guarantee of the right to "form associations to safeguard and improve working and economic conditions", from which the *Tarifautonomie*, i.e. the right of trade unions and employers (or their associations) to regulate working conditions without state interference, is derived. This means too, that there is no minimum wageⁱⁱ and no compulsory arbitration by the state.

(2) Sectoral contract agreement (*Flächentarifvertrag*)

Contract bargaining is overwhelmingly at the sectoral level between trade unions – almost exclusively the member unions of the *Deutscher Gewerkschaftsbund* (DGB) – and employers' associations. By law (*Tarifvertragsgesetz* 1949), only unions may sign collective agreements on behalf of employees, while individual employers may

bargain with the union on their own. While the collective agreement legally applies only to union members employed in companies which are members of the employers' association or have their own "in-house" union contract, employers generally extend contract provisions to non-union employees as well. As such, the rate of coverage (sectoral and individual enterprise contracts) for all employees is rather high. In 2001 it was 71% in western Germany and 56% in eastern Germany (IAB 2002). The sectoral contract agreement ensures industrial peace for the life of the contract. Its existence enables interest aggregation at a relatively high level on both sides of the negotiating table, setting standards of performance primarily within, but also across recognizable sectoral boundaries.

(3) Industrial unionism

The dominant union organizational form in Germany is representative trade unions with branch-wide (and multi-branch) jurisdiction according to the principle of "one workplace – one union"ⁱⁱⁱ. Their counterparts are representative employers' associations. Each side has a mandate of its members to negotiate employment contracts at the sectoral level independent of state interference. Moreover, unions and employers' associations are also an integral element of the regulatory agencies of labour market and social policy, to mention only their most prominent areas of participation in wide range of state agencies and semi-official bodies^{iv}.

(4) Works councils

Parallel to the highly visible role of employers' associations and trade unions there are organizationally separate and legally institutionalized enterprise level organs of employee representation, i.e. the works councils (*Betriebsräte*; in public service: *Personalräte*) and codetermination at the company board level. Mandated by law to represent the entire workforce within its jurisdiction, works councils are not just the "extended arm of the union". Works councils have responsibilities and commitments which both tie them to the enterprise and give them a degree of independence from union influence (Fichter 1988). And yet, in times of conflict, the assurance of union support can provide the bargaining leverage they often lack on their own.

This dual, or complementary instrument of employee representation - trade unions for collective bargaining and works councils for workplace issues - has fostered conflict resolution and flexible adaptability to technological changes. It has also made a significant contribution to stabilizing interest aggregation and decision making processes within the unions (Streeck 1979). The integrative and consensus-building function of codetermination has been especially singled out as being largely responsible for the admirably high level of labour peace and for contributing to union moderation in wage bargaining.

(5) Extensive judicial framework

A further essential element of this system of labour relations is a framework of legal regulations for dealing with labour disputes which the affected parties have not resolved on their own. Measures which remove potentially bitter labour and employment disputes from the workplace range from mediation and arbitration to a network of labour courts, whose professional judges are assisted by equal numbers of lay judges nominated by employers' associations and trade unions.

(6) Vocational training

Parallel to the "academic track" of schooling (*Abitur*), the German educational system in cooperation with business provides job qualification through apprenticeships based on classroom attendance and practical training courses within the enterprise. On a second tier, institutions of more specialized qualification, such as vocational colleges (*Fachhochschulen*) serve to train for higher-level job opportunities. The system ensures the availability of a highly-skilled and in regard to job content, mobile workforce able to contribute to product quality and innovation as well as to production efficiency^v.

(7) Social welfare state

The enveloping framework for these elements is a social welfare state with recognized and effective boundaries and explicitly neo-corporatist arrangements at the national, regional and sectoral level.

The participatory, regulatory, and negotiated settlement culture of these institutions and organized interests developed and thrived in the post-war Keynesian world of economic policy. The label "*Modell Deutschland*" – or German Model – which appeared in the social science literature in the 1980s (Dufour, 1998; Müller-Jentsch, 1995), epitomized the neo-corporatist theorem for explaining economic adjustment and crisis management (Schmitter, 1981, Cameron, 1984). Despite recurring class conflicts as well as disputes over the regulations of the balance of power, there was an overriding understanding that interest articulation on the part of one side or the other should not escalate and rupture the high level of consensus which had been attained. Moreover, this was possible not in the least because the boundaries of the model's application - the West German state and its *soziale Marktwirtschaft* - were clearly defined and accepted.

The academic literature of that period generally reflected the summation which Peter Katzenstein made at the end of his edited volume "*Industry and Politics in West Germany*", that "... short of unforeseeable major upheavals [...], pervasive small-scale change and experimentation in industry is compatible with a large measure of stability in national institutions and politics without sacrificing West Germany's international competitiveness" (Katzenstein, 1989: 353). Nevertheless, the model began to draw criticism as the decade of the 1980s came to a close because it was not always functioning according to the high expectations with which

it had been associated (Hohn, 1988; Streeck, 1996). The most glaring problem was (and still is) clearly unemployment, flanked by structural changes in the labour force (i.e. increasing number of women), company restructuring, the reorganization of work and labour-reducing technological innovations. But still, most observers agreed that the German model with its dual system of interest representation (trade unions – employers' associations; works councils – enterprise management) was well equipped to handle such adjustments (Turner 1991), and did not regard them as harbingers of fundamental difficulties ahead. Since then, of course, Katzenstein's "unforeseeable major upheavals" have become reality:

(1) The growth and spread of international enterprises with a transnational perspective for flexible production, the utilization of labour, marketing and financial transactions. This "globalization" seriously challenges the functionality and existence of the national system of labour relations and labour regulation in Germany, not in the least by "global sourcing" (Hoffmann, 1997: 86) and fostering deregulation, social dumping and "regime shopping".

(2) The incorporation of the former German Democratic Republic (GDR) into the Federal Republic of Germany in 1990. Economic transformation and cultural and political integration is still a demanding and costly task today. As one analysis of labour relations in eastern Germany concluded, the institutional setting transferred from West Germany "proved to be a formally functional, shock-absorbing system of regulation, but only minimally adaptive to handling new problems" (Ettl/Wiesenthal, 1994: 447).

(3) The dissolution of the Soviet bloc has also opened up a staging area in the countries east of Germany begging for dynamic market utilization. These countries are growing in importance as investment recipients, trading partners and providers of qualified and low cost labour. After accession to the EU, these countries will continue to provide German firms with opportunities for relocating production (c.f. Doerrenbaecher et.al., 2000; Gradev, 2001), and the may even host an even greater inflow of capital and goods from the rest of the EU.

(4) The process of European integration, especially since the agreement on the Maastricht Treaty (1992/93), has profoundly influenced the internal workings of the model by redefining and even removing regulatory elements from the German model. Here too, low-cost labour has become readily accessible to capital through the recognized principle of the free flow of goods and persons within the EU. With the introduction of the Euro as the common European currency, the mobility of capital has been enhanced even further.

For the past few years, the buzz word "erosion" has generally guided the academic discussion of the impact of these and other factors on the German model of labour relations. It is certainly not irrelevant to analyse the disruptive and even destructive effects of dynamic processes of change in both national and international constellations of the political economy. This is crucial for our understanding of the parameters of political action and strategy development in regard to the challenges faced by the organizational actors in the field of labour relations. But it is only a starting point from which we should proceed to the question of the policies, strategic choices and development trajectories to be considered as institutional power relationships are adjusted in the context of new demands and needs. Pointing to "erosion" without considering the proactive and reactive capacities of the actors involved is a teleological dead-end in which the outcome, the ultimate demise of the German Model, is seemingly unavoidable.

3. COMPETITIVENESS AND SOLIDARITY: LABOUR RELATIONS IN A CROSSFIRE

The essence of my argument is that the German Model of the 1970s was already beset with problems by the 1980s, but these were held in check by a powerful and stable institutional environment. However, unemployment was already menacingly large, and once the Wall fell, the Soviet bloc imploded, the German unification process began, and the EU Single Market reached completion, the existing economic changes brought on by technological development and market restructuring were noticeably exacerbated. A level of reciprocal, split-pattern interlocking and fluid relationships among national, European and global factors is emerging which questions the future viability of sustaining a comprehensive and distinctively national pattern of labour relations, even in a more deregulated and decentralized version.

Looking at the conflicts over reforms which have surfaced most recently, at the debates over the efficacy of the institutions and instruments of the model, and considering the "normal" union-employer bargaining over substantive issues as well, there emerges a mixed picture of strategic and tactical moves. To illustrate this, the following section will review developments and problems in three key areas of the German model: the sectoral contract bargaining arena, the arena of enterprise level bargaining, and trade unions and employers' associations as representative membership organizations.

2.1. The Instrument of Collective Bargaining: Der Flächentarifvertrag

The sectoral collective agreement is the key instrument of systemic regulation^{vi}, setting minimum wage standards - generally oriented on productivity and inflation - and defining the boundaries and content of company-level bargaining over issues of work organization. It is this instrument - along with its pattern bargaining effects - which has been targeted by employers and conservative / neo-liberal politicians for elimination (Fichter, 2003). In some sectors, such as engineering and auto production, the union (*IG Metall*) and its opposite on the employers' side

(*Gesamtmittel*) wage public battles over the reform of the *Flächentarifvertrag*, mirroring their often acrimonious bargaining rounds. In this sector, the process of reform began as early as 1984 with a compromise in which the union accepted more company-level flexibility and regulating freedom in scheduling work-time in exchange for employer agreement on a general shortening of working hours (Bahnmüller / Bispinck, 1995: 145).

In contrast, the mining and chemical workers' union (*IG Bergbau-Chemie-Energie – IG BCE*) goes on record in defence of the level of "social partnership" it has achieved with its counterpart employers' association. Both organizations have publicly criticized the way in which the problems of the metalworking industry have distorted the discussion of the collective bargaining system in general. (Terbrack 1995:30; Jacoby/Behrens 2001)

Up to the end of the 1980s, employers generally ignored calls from politicians to do away with the sectoral contract or to turn it into a mere framework agreement. Today, this support is no longer certain, although a general acceptance of its advantages (Thelen/Wijnbergen, 2003) is still discernable (Sievers, 2004). Employers argue that the German system as a whole is too regulated, inflexible and cumbersome to function effectively in today's globalized economy, pointing specifically to the fact that the sectoral collective agreement fails to reflect the liberalization (deregulation) of economic structures in Europe and indeed throughout the world. While the system is designed to take wages out of competition, ensure labour peace, and create upward pressure on firms to develop technologically high standards using highly skilled and well-paid employees, its protective mechanism is increasingly vulnerable. For one, it is embedded in a macro-economic context, which is continually being challenged by the micro-economic, profitability arguments from a single firm perspective. Secondly, the sectoral contract is a regional and national instrument. Wage competition may be eliminated within the jurisdictional limits of the contract. But when these limits do not coincide with market structures, and when there is no protection against outsiders entering the market and undermining the German standards, the sectoral agreement's claim to be a protective instrument becomes a farce. In the end, it makes no difference whether these "intruders" are foreign enterprises, or German owned firms that are not members in an employers' association, or whether they are foreign or German workers ready to offer their skills at a lower price. When such an instrument loses its ability to control, it leads to the building of coalitions which bypass its regulating capacity in search of new means of regulation. In Streeck's terms, we find "coalitions between employers, who want to lower their wage and possibly their training costs, and employees, who prefer lower pay to no pay at all." (Streeck, 1996: 91) Especially in eastern Germany, illegal "flights from the contract" seems to be silently acknowledged by the employers' association as a means of avoiding a "flight from membership". (Schroeder / Ruppert, 1996: 41) At the same time, undercutting a valid contract is only feasible when employees have no union or works council representation, or when these acquiesce to such a scheme. Under the conditions of jobless growth and less secure employment, works councils are under pressure to assent to these and other cuts.

Union reform proposals for the sectoral contract are based on allowing more enterprise-level bargaining while maintaining union control over the process. The basic position of the DGB unions is reflected in a policy statement recognizing the need for a new relationship between sectoral contracts and their shop-level application which would "recognize the differentiated interests of employees" and contribute to "shaping the different realities of individual branches and enterprises" (DGB, 1996: 14). For their part, the employers' associations have made more far-reaching proposals in the direction on turning the sectoral contract into a framework agreement, within which the substantive negotiations take place at the enterprise or workplace level. This has been the goal of *Gesamtmetall* for the metalworking and electrical branches since 1996:

- Reduction of the contents of sectoral collective agreements to a few core regulations applicable to all members. These include percentage changes in wage rates and salaries, the level of base pay, the number of working hours on which wages and salaries are gauged, vacation time, the level of overtime and bonus payments, agreements supplemental to legal provisions governing such items as dismissals, and regulations for consultation and mediation.
- Definition of additional regulations, which are not binding for all parties to the sectoral contract. By this, *Gesamtmetall* means framework regulations, optional packages for members to choose from as well as release clauses.
- Simplification of contract negotiations through interlocking negotiating commissions and steps toward centralization.^{vii} (*Gesamtmetall*, 1996; 2002)

In some sectors, this has even been put into practice (Dörflinger, 1996: 21). For the associations, it would not be in their own self-interest to eliminate the sectoral contract completely (Schroeder/Silvia 2003; Thelen/Wijnbergen, 2003); moreover, as even critics of the sectoral contract have pointed out, powerful unions would probably still exist and could force their will on individual enterprises (i.e. large international firms) even easier.

Considering the importance of the economic sectors for which *IG Metall* and *Gesamtmetall* bargain, the progress of their reform efforts will have far-reaching effects on the future structure of contract negotiations in Germany. Many incremental changes of a more pragmatic nature are being implemented which are continually reforming the system. One such agreement which has become a model arrangement is the hardship clause (*Härtefallregelung*). This agreement resulted from the 1993 strike in the metalworking industry in eastern Germany and included a provision allowing individual companies to opt out of the contract if they could prove such an option to be essential for their survival. To do this, the firm must receive written permission from a joint board of union and employers' association representatives which had to reach a unanimous decision based on the economic and financial data it was presented. According to a study of the hardship clause in operation (Hickel/Kurtzke, 1997), this cooperation has not only furthered structural and developmental creativity, it has provided those companies in need with an

infrastructural backing. And as opposed to pure release or opening clauses, it has protected works councils from management power-plays and allowed the union to keep its reins on the process.

Although such partnership agreements are a tribute to the resiliency of the sectoral contract (Turner, 1998), the climate of constructive conflict partnership (Müller-Jentsch, 1999) has deteriorated at the sectoral level in the past few years. For example, the trend toward a shorter working week described above has come to a halt. Not only is the actual level of working hours per week at 40-plus considerably higher than the contract provision of 35 hours (in western Germany), but employers across all sectors as well as politicians have been calling for a lengthening of the workweek as a means of bolstering the economy and combating unemployment. Interestingly, this thrust has come on the heels of the *IG Metall's* failure to extend the 35 hour provision in the engineering and automotive sectors to eastern Germany. Massive employer resistance buttressed by negative media coverage of the union's position along with strategic deficiencies and leadership conflicts within the union led to the resounding defeat for *IG Metall* (Schmidt, 2003)

2.2. *The spread of workplace-level bargaining*

The general climate of deregulation and decentralization has strengthened the trend in the German collective bargaining system to "soft law" agreements, i.e. recommendations by the sectoral bargaining agents for company-level agreements on a variety of topics. (Bahnmüller/Bispinck, 1995: 157) Much of this was generated by the "Volkswagen model", a highly respected agreement which went into effect in January 1994 and saved some 30,000 jobs by reducing the average number of weekly hours to 27½ . (Hartz, 1994; Volkswagen AG/IG Metall, 1994) Both the employers and the union viewed the possible dissemination of such an accord throughout the industry favourably. But the company-level job coalitions which first ensued turned into something different from what the *IG Metall* intended. (Zeuner, 1996) Instead of giving up a pay increase to create new jobs, works councils found themselves negotiating pay cuts (within the limits of the sectoral contract) to secure existing employment and prevent further dismissals.^{viii} (Rosdächer/Stehle, 1996: 319, 325) For the unions, this variety of social partnership offers little support for regaining a strategic offensive (Fichter/Greer forthcoming).

Legitimate negotiations with works councils at enterprise level on the basis of the sectoral collective agreement have increased in complexity, which is a sign that sectoral contracts have become less comprehensive and detailed. It is also a sign of the readiness and capability of enterprise level actors to work out customized agreements on their own, generally under the watchful eyes of the sectoral bargaining partners, but not always. According to recent studies, such agreements now cover not only employment security issues, they also include pension funds and individual bonus regulations (Streeck/Rehder, 2003).

Shifting bargaining responsibility to the enterprises also means that the role of another key feature of the German model, works councils and codetermination, is undergoing change. As institutions of company-level decision-making processes,

both have contributed to a climate of negotiation and interest compromise which has had, as most observers would agree, a positive effect on the past stability of the German economy and its ability to cope with adjustment. (Bacon / Blyton / Morris, 1996) Nevertheless, even those who champion the system fear that it is in danger of being unable to successfully deal with the reality of job losses, outsourcing and the increasing mobility of capital and labor. (Dieterich, 1997: 3) Also, the weakening of the "corset" *Flächentarifvertrag* in the interest of more tailored-to-fit workplace agreements increases the burden on works councils. Their reactions and ability to cope with this new responsibility seem to be mixed. A survey of *IG Metall* works councillors, conducted in 1997 and again in 2001, came to the conclusion that the protective function of the sectoral contract is diminishing, making it increasingly difficult to defend employee interests and control the employers' demands on and for labour. Many felt that while this was not the intended as the result of the union's policies, they were left to fend for themselves with an ever decreasing arsenal of defence. (Bergmann / Brückmann / Dabrowski, 1998; 2002)

While recognizing such difficulties, other observers consider the system to be basically sound but in need of revised concepts of its functionality. As Müller-Jentsch and Sperling have pointed out, creating new patterns of work organization and introducing concepts of group and individual responsibility present challenges to the existing channels of interest representation and dialogue. But in the end, management needs the works council for the social rationality this body guarantees as a prerequisite for economic efficiency. (Müller-Jentsch / Sperling, 1998: 76; see also Baethge/Wolf, 1995: 243) In the view of Horst Kern however, the well-trodden paths of social communication - including those closely associated with all aspects of production and innovation - are a two-edged sword, both useful and detrimental under the demands of change. The relationship of trust between management and employees, one of the pillars of the system, has on the one hand broken down under the growing economic pressures with which firms are faced. On the other hand, reliance on existing relationships of trust can be a drawback if it excludes the uncertainties of revising the old or entering into new relationships. "Too much trust in the familiar can be an expression of an extremely unproductive view of matters, and a shot of mistrust can be productive." (Kern, 1996: 12) Kern does not however present any hard evidence that the system of codetermination is a cause of the generally recognized German weakness in basic technological innovation. Should this be born out, revisions to the system could include both a relaxing of legal regulations and procedures, and providing works councils with greater incentives to contribute to the development of production and market strategies. (Nagel, 1996: 107)

2.3. Trade Unions and Employers' Associations as Membership Organizations

Compared to the rapid and massive declines in membership which unions in other industrialized countries were going through by the early 1980's, the unions within the *Deutscher Gewerkschaftsbund* (DGB) continued to maintain a relatively high level of organizational coherence throughout the decade prior to unification.

Membership levels stagnated around 7.8 million, while organizational density declined marginally from 33.4% to 31.8% in 1989. (Schmitz / Tiemann / Löhrlin, 1991: 88)^{ix}

In the course of their organizational build-up in eastern Germany in the years 1990 and 1991, the DGB unions signed up over 4.1 million new members, increasing overall membership by more than 50%. However, that success story could not hold up as massive de-industrialization and soaring unemployment engulfed eastern Germany (Fichter, 1997). By the end of 1992, some 1.6 million industrial jobs had been lost, and union enrolment in the new *Bundesländer* fell off by 800,000. Ten years later (2002), the DGB unions had only 1.3 million members in that part of Germany. By comparison, in western Germany membership losses during this time period amounted to some 17%. Although the overall decline has tapered off in the past few years, total membership in the DGB unions was down to 7.7 million at the end of 2002. (Schroeder/Weßels, 2003: 634).

Post-unification membership and financial problems have been a decisive impulse for the wave of mergers within the DGB. The DGB's organizational structure at its founding in 1949 remained virtually intact until the 1990s. Today, the DGB is composed of only eight industrial and multi-industry unions^x. The latest, and largest, of these mergers was completed in 2001, when a new service sector union *ver.di* was launched. Founded by four *DGB* unions and the former white-collar union *DAG*, it is larger than the previously dominating *IG Metall*. Today, it is beset with considerable organizational and financial problems and, for many, has yet to realize its proclaimed goal of better representation of the membership (Keller, 2001).

Such restructuring is designed to stabilize jurisdictional coverage and strengthen the unions' capacity to represent their members and provide expected services. Some of the smaller unions were unable to operate effectively without the financial support of the DGB even before German unification. But organizational expansion to the East suspended any consideration of reform, and only in its wake, with traditional organizational divisions and jurisdictional agreements called into question by continuing membership decline, enterprise restructuring, technological and product development as well as changes in the production chain, have the DGB unions latched onto the merger strategy as the most appropriate answer to their problems.

Beside the question of the future of the DGB as a federation in this new constellation, (Fichter et.al., 1996) the unions will have to show that they are more than just organizational agglomerations and that the identification of their members with the organization will not be lost in the shuffle. Most unions have initiated projects to adjust their organizational structures and streamline administrative procedures; but it is uncertain whether restructuring will achieve the projected results (Behrens / Fichter / Frege, 2003). Unions thrive on solidarity and the engagement of their members on behalf of ideals as well as material goals. The creation of new and enlarged union structures presents a problem similar to the recognition gap already faced by the unions in the new *Bundesländer*. Even the powerful *IG Metall* has found that its strength in that part of the country is quite limited, as the lost strike of 2003 clearly showed (Schmidt 2003) The perceived

advantages of size will not find the acceptance of the members if it fails to open the way for the creation of a new organizational identity through recognized and effective rights of participation. (Schnabel / Pege, 1992: 122f.)

Employers' associations have also suffered considerable losses in membership since unification. Growing international competition has fuelled massive conflicts of interest for example, in the automobile industry between the large car manufacturers and their smaller suppliers over wage settlements negotiated by their common employers' association. Smaller enterprises have increasingly protested that the agreements are too costly and as such feel that their interests have not been adequately represented. This process seems to be the result of what Klaus Dörre has called the "loss of the convoy escort" (*Verlust des Geleitzugeffekts*) in referring to the ways in which key enterprises in a particular sector are increasingly passing on cost reduction and flexibilization demands to smaller suppliers while using their transnational positions to avoid domestic social costs in Germany. (Dörre, 1998: 128) This conflict of interests is particularly evident in the large employers' association *Gesamtmittel*, but is of no less concern to a number of other associations, for example in the pharmaceutical industry (Schnabel, 1995: 59).

Although there are many different reasons given by firms for joining or leaving an employers' association, including primarily economic ones such as buy outs, restructuring or outsourcing (Schnabel/Wagner, 1996: 293), the importance of the employers' association as a "counterweight and negotiating partner to the unions" (Vieregge, 1993: 744) seems to be an especially key factor. In the past, this has been a decisive criterion for joining; in the meantime, as the protective function of the sectoral contract wanes, this ranks highest on the list of reasons given by companies for leaving their association. In a study of the membership fluctuation in four regional employers' associations of the metalworking and electrical industries, dissatisfaction with the negotiated contract agreement was on the list of the reasons given by 75% of firms which had cancelled their membership. A distant second on the list was dissatisfaction with the level of dues (37%) (Schroeder/Ruppert, 1996: 41). Another survey has shown that along with the size of the company, its age was also a factor in determining membership in an employers' association. Also, avoiding the binding character of the sectoral collective agreement is an option if the risk of a strike is minimal and the level of unionization in their company is low. Especially newer, smaller, and more flexible enterprises are untouched by the traditional elements of labour relations regulation in Germany (Schnabel/Wagner, 1996: 301-303).

3. CONCLUSIONS

Will the model become obsolete or dysfunctional as a result of the practices tailored to the overpowering influence of institutionally unfettered market competition on a global scale; or will the institutional framework for regulating labour and labour relations in Germany, which has proven to be resilient and adaptable in the past, continue to evolve incrementally, reforming to the extent necessary to retain its status as the accepted mode of interaction?

The interaction of institutional resiliency and actors' choice has led to considerable, and yet still manageable modifications in the system. In practice, the heterogeneity of the German model incorporates a pragmatic strength of conflict and cooperation which enables incremental change and adaptation. The key issue which will ultimately determine the future course and design of labour relations in Germany is whether the model continues to be an instrument of interest regulation and conflict resolution that can provide all relevant parties with otherwise unattainable advantages. Structural changes and actors' choices in the national context are increasingly influenced by exogenous factors, bringing new contingencies into the process, especially since the actors – and in part, the institutions as well – may represent interests and constituencies outside of the heretofore accepted territorial arena. New constellations of institutions and actors, for example on the European level, will arise in the process, affecting the complexion of the German model.

The advent of social pacts throughout Europe over the last decade (Hassel, 1998 for western Europe; Hethy, 1995 for eastern Europe) may be helping smaller countries to bolster their international competitiveness, but in Germany, this approach in the form of the "Alliance for Jobs" (*Bündnis für Arbeit*) has had a poor track record. A national retrenchment policy (Streeck, 1998) around neo-corporatist arrangements is ill-suited as an instrument of reforming the system to meet current challenges. Alternatively, in light of the differentiation scenario referred to above, the prospects of a system of multi-level regulation (Dörre, 1999), integrating European and German elements, would at present seem to offer the most reasonable chance of steering a constructive course of adaptation, while retaining most of the protective elements which have been the hallmark of the system in the past.

Ultimately, it is less the forces of "erosion" than the strategies and power of employers, unions and government as organized actors which will determine the future course of change. Employers have both effected changes in their interest and profited from global and social structural changes. While their power has increased, the power of unions has waned. Regaining the initiative and reframing the power equation will require new strategies and perspectives on the part of unions (Hyman 1999; Frege/Kelly, 2004 forthcoming). Evidence of a turn-around in this process is still scanty, but the potential ramifications are of global dimensions, making its inclusion in the social science research agenda imperative (Fairbrother/Yates, 2003; Turner, 2004 forthcoming).

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11. NOTES

- ¹ One of the union projects, called *connex.av*, which was initiated at the time in the media sector of the New Economy, has been unexpectedly successful. See <http://www.connex-av.de> for more information.
- ¹ A legal minimum wage has been introduced to the construction industry in conjunction with the posted-workers' directive and based on the currently valid collective agreement.
- ¹ This principle applies only to the DGB unions. The major unions competing with the DGB have been the Deutsche Angestellten-Gewerkschaft (DAG), which represented salaried employees until it merged with several DGB unions in 2001 to form the public service union ver.di; the major civil service association Deutscher Beamtenbund (DBB) and the Christian union CGB.
- ¹ According to government statistics there are around 1,100 sectoral and regional collective bargaining units in Germany. Over 58,000 collective agreements are in effect. (WSI Tarifhandbuch 2002)
- ¹ An insightful and usually well-informed observer, Hans Mundorf of the *Handelsblatt* reported only a few weeks after the reform project was announced that Gesamtmetall headquarters had failed in its attempts to win support within the regional associations for centralizing contract negotiations on the employers' side. (Mundorf, 1996: 5)
- ¹ In their comparison of concession bargaining in the U.S. and "employment securing" collective bargaining in Germany, Rosdächer and Stehle point out that in regard to the extent and intensity of the agreements analyzed in both countries, the German unions and works councils had to make less concessions than their American counterparts.
- ¹ These are the DGB's own figures, and since they do not include the unemployed, whose number rose from over 800.000 at the outset of the decade to 1.9 million in 1989, they are somewhat misleading. When the unemployed are included, the rate of organizational density drops from 33.7% (1980) to 30.5% in 1989.
- ¹ In 1978 the previously independent police union GdP joined the DGB, and in 1989 the first merger took place between the printers union and the artist union to form the *IG Medien, Druck und Papier, Publizistik und Kunst*.

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ⁱ One of the union projects, called *connexx.av*, which was initiated at the time in the media sector of the New Economy, has been unexpectedly successful. See <http://www.connexx-av.de> for more information.

ⁱⁱ A legal minimum wage has been implemented in the construction industry in conjunction with the posted-workers' directive and based on the currently valid collective agreement. Since the early months of 2004, the

question of legislating a minimum wage has become an issue of public debate.

ⁱⁱⁱ This principle applies only to the DGB unions. The major unions competing with the DGB have been the Deutsche Angestellten-Gewerkschaft (DAG), which represented salaried employees until it merged with several DGB unions in 2001 to form the public service union ver.di; the major civil service association Deutscher Beamtenbund (DBB) and the small Christian union CGB. For membership figures consult the respective internet homepages.

^{iv} For listings of the internet websites of German unions and employers' associations see <http://www.polwiss.fu-berlin.de/tu/links.html>.

^v The "dual system of training" has a long institutional history (Thelen forthcoming). Its effectiveness is currently part of the overall debate on labour market regulation.

^{vi} According to government statistics there are around 1,100 sectoral and regional collective bargaining units in Germany. Over 58,000 collective agreements are in effect. (WSI Tarifhandbuch 2002)

^{vii} An insightful and usually well-informed observer, Hans Mundorf of the *Handelsblatt* reported only a few weeks after the reform project was announced that Gesamtmetall headquarters had failed in its attempts to win support within the regional associations for centralizing contract negotiations on the employers' side. (Mundorf, 1996: 5)

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^{ix} These are the DGB's own figures, and since they do not include the unemployed, whose number rose from over 800,000 at the outset of the decade to 1.9 million in 1989, they are somewhat misleading. When the unemployed are included, the rate of organizational density drops from 33.7% (1980) to 30.5% in 1989.

^x In 1978 the previously independent police union GdP joined the DGB, and in 1989 the first merger took place between the printers union and the artist union to form the *IG Medien, Druck und Papier, Publizistik und Kunst*. See <http://www.dgb.de>