VARIETY AND CHANGE IN THE ROLE OF EMPLOYEES IN CORPORATE GOVERNANCE

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I. INTRODUCTION

It took me a long time to even begin this short note. The subject—the role of employees in corporate governance—raises such a myriad of issues that I found it difficult to settle on the organizing themes for my comments. Moreover, as even a brief review of the three papers shows, the authors made the task of the reviewer more challenging (even as they made that of the reader more interesting) by pursuing a variety of approaches to the topic.

Araki's paper on Japan provides perhaps the most matter-of-fact analysis of the subject. He presents a general overview of the postwar system of corporate governance in Japan and then describes the role that employees have played within it, supported by three main institutions: 1) enterprise unionism; 2) widespread joint-management consultation practices; and, 3) internal management promotion practices. Addressing the question of what has changed in recent years, he discusses what has happened to these institutions in the context of the more general evolution of the Japanese system of corporate governance.

If there is much to be learned from Araki's paper about the role of employees in Japanese corporate governance, he says surprisingly little about how it matters. In contrast, Sadowski, Junkes and Lindenthal are mainly preoccupied with the task of analyzing the implications of the basic characteristics of, and recent changes in, the role of employees in corporate governance in Germany. They do describe the basic elements of the German system of codetermination in the postwar period and give some sense of the changes that have occurred in recent years. However, their account is quite summary and is really intended as a prelude to the body of the paper where

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they present what they describe as "a micro-economic efficiency analysis" of codetermination. Specifically, they review various theoretical arguments that have been made about the relationship between codetermination and economic efficiency and then summarize the empirical analyses that have been brought to bear on this question.

Unlike Sadowski, et al., O'Connor is concerned with the implications of recent changes in employees' role in U.S. corporate governance for "labor," rather than the economy as a whole. Her account of the historical evolution of the role of employees in the U.S. system of corporate governance is cursory and indeed is as much theoretical as it is empirical in its orientation. Her primary concern in the paper is with documenting and discussing how unions have gained some influence on the corporate economy by leveraging "labor's capital," that is, the funds accumulated through pension funds that are jointly managed by unions and management.

The variety of approaches that the authors adopt in addressing the subject of employees and corporate governance, and the diversity of the experiences with which they are concerned, makes it difficult to build on issues that are central to all three contributions. More useful, I think, is to attempt to relate aspects of the different articles to an issue that is crucial from the perspective of comparative research on corporate governance, that is, the foundations of difference and change in the roles that employees have played in various systems of corporate governance.

Contemporary research on comparative corporate governance was initially preoccupied with the question of differences in national systems of corporate governance. Specifically, in the 1980s and early 1990s, there was considerable interest in the apparent strengths of the so-called insider systems of corporate governance, especially the German and Japanese systems, as compared with their U.S. counterpart, for generating economic performance and social cohesion. With the emergence of a "new economy" in the United States, proponents of the alleged virtues of the U.S. model of corporate governance, and specifically of the merits of "shareholder value" as the primary objective of corporate enterprises, largely drowned out other voices. In parallel, the focus of inquiry in empirical analyses of comparative corporate governance has shifted from difference to change. In particular, there has been a growing interest in pressures on national systems of corporate governance to converge that are allegedly being generated by the process of globalization. If scholars' research questions have tended to wax and wane in response to the concerns of the day, it is crucial that we understand the processes that generate both difference and change in corporate governance.

Various arguments have been advanced to explain the emergence and evolution of the institutions that are collectively described as national systems of corporate governance. The contemporary debate on corporate governance was initially stimulated by a concern with the links between institutions of corporate governance and economic performance. In the early research on the subject, the notion of an optimal system of corporate governance was prominent. At any point in time, different national systems of corporate governance could be portrayed as being closer to, or further from, optimality and, over time, a system of corporate governance could be seen to be converging on, or diverging from, the ideal. An important challenge to that approach came from a group of scholars loosely grouped around a "varieties of capitalism" approach. Although still concerned, to a greater or lesser extent, with economic performance, they rejected the notion that that there was one best way to organize corporations or an economy more generally. The main focus of the empirical research in the varieties of capitalism literature has been the link between comparative-historical patterns of capitalist organization, of which the system of corporate governance is one aspect, and patterns of economic behavior and performance. Other strands of thinking in comparative corporate governance have emphasized the political, rather than the economic, foundations of similarities and differences in systems of corporate governance. In this regard, there has been particular interest in the American literature on corporate governance in the role of political interests in supporting inertia that may undermine economic performance. Recently, some scholars have attempted to make more general arguments about the relationship between political and corporate governance systems. Finally, one can also identify a strand of the corporate governance literature that situates governance institutions in different cultural contexts. There is considerable overlap among these various perspectives and new hybrid forms continue to emerge. The purpose of my brief review is not to capture all of the subtleties of the various approaches; my point is only that there is already a fairly broad range of opinion on the subject of difference and change in corporate governance systems.

In principle, preoccupied as they are with the role of employees in corporate governance in Japan, Germany and the United States, these three papers should have something important to say to the debate about the foundations of difference and change in national systems of corporate governance. These countries have 1) differed substantially in terms of the role that employees have played in the national system of corporate governance, and 2) witnessed important changes in that role in recent years. All of the papers, however, are surprisingly reticent when it comes to explicit analyses of these issues. In the discussion that follows, I begin with what the authors have to say about differences across systems of governance in the role of employees and then discuss the manner in which they deal with recent developments.

II. VARIETY IN SYSTEMS OF CORPORATE GOVERNANCE

All of the three papers are framed largely in terms of the issues that are prominent in discussions of corporate governance in the national contexts to which they refer. There is, of course, nothing wrong with this approach and, indeed, each paper provides a potential foundation for proposals on policy and further research for the particular national system of corporate governance to which it refers. However, none of the papers really takes on the challenge of situating the national characteristics it describes within a comparative framework. The result is that there is inadequate attention by all the authors to the question of what it is that makes each country different from another.

Only in the Japanese paper do we find any explicit discussion of the basis of Japan's distinctive system of employee representation in corporate governance. Even in that case, however, Araki deals with the issue in a rather cursory way. His primary concern is to dispense with "the cultural explanation" for Japanese industrial relations on the grounds that "Japan experienced turbulent labor-management confrontations" in the early post-war period and those cooperative employee-management relations are of recent origin. I did not find myself in any disagreement with Araki about the limits of cultural explanations that start from the premise that Japanese people are inherently "harmonious" and move quickly to distinctive characteristics of the Japanese system of corporate governance. However, to take seriously cultural explanations of comparative corporate governance systems, it seems to me that one would have to go beyond the rather rudimentary forms that Araki criticizes. In Ronald Dore's review, for example, he suggests that the greater importance of internal, rather than external, controls in the Japanese system of corporate governance is cultural in its origin.[1] Moreover, even if one were to be persuaded that cultural explanations have little to offer for understanding the role of Japanese employees in corporate governance, then what? Precisely because, as Araki repeatedly emphasizes, employees' role in corporate governance in Japan has relied so heavily on customary practices, the question of what has held these practices together seems vital. Is it, for example, their economic functionality? Or, should we go along with Milhaupt's recently stated view that it's all about vested interests?[2] Unfortunately, Araki does not address these questions.

Surprisingly, O'Connor does not systematically address them either, even though she recognizes in her opening paragraph that "the absence of employee voice in corporate governance demonstrates a great deal about American corporate culture as well as the American national political-economy." Certainly, but what exactly does it demonstrate? O'Connor makes some reference to various ways of thinking about these issues—she cites, for example, articles by John Coffee and Mark Roe that propose different forms of political interpretations of corporate governance systems—but it is unclear what she thinks of these perspectives. There is the occasional hint about how she explains the origins of the comparatively minor role that employees have played in U.S. corporate governance. However, her remarks along these lines were not very satisfying, partly because they did not delve deeply enough, but also because they were sometimes of contestable historical accuracy.

For example, she notes that "Historically, unions in the United States did not support reform proposals for German-style codetermination because labor was reluctant to challenge the 'system' that established managers as 'thinkers' and workers as 'doers.'" That statement does not seem to me to do justice to the complexity of the ambitions of labor leaders in the United States, nor the battles that were fought and lost over these issues in the United States in the last century or so. If one goes back to the period after World War II, for example, there is certainly evidence that at least some prominent members of the U.S. union movement wanted to go beyond wage

1. *See* Ronald Dore, *Comment: Papers on Employees and Corporate Governance*, 22 COMP. LAB. L. & POL'Y J. 159 (2000); *see also* Amir Licht, *The Mother of All Path Dependencies: Towards a Cross-Cultural Theory of Corporate Governance Systems*, 26 DEL. J. OF CORP. L. 147 (2001).

2. Curtis Milhaupt, *Creative Norm Destruction: The Evolution of Nonlegal Rules in Japanese Corporate Governance*, 149 U. PA. L. REV. 6 (2001).

determination in their negotiations with corporate managers, much to the distress of many of the latter.

Walter Reuther of the UAW is a good example of one such union man. As head of the UAW General Motors Department in 1939, Reuther had already aroused the suspicion and ire of GM management when in 1940, he announced his "500 Planes a Day" plan to produce military planes without disrupting civilian production. What became known as the Reuther Plan aroused interest and respect in many quarters, but Charles Wilson, the President of GM, was less impressed by Reuther's experiment in "counterplanning from the shop floor up":[3]

> Everyone admits that Reuther is smart but this is none of his business . . . If Reuther wants to become part of management, GM will be happy to hire him. But so long as he remains Vice-President of the Union, he has no right to talk as if he were Vice-President of a company.[4]

When, in the first postwar bargaining round, Reuther attempted to link wage increases to GM's capacity to pay, calling on the company to open its books so that all could see that they could afford higher wages without raising prices to consumers, GM senior managers took it as further evidence of Reuther's desire to violate their rights to control the businesses they ran and they fought back with vehemence. The UAW struck to achieve their demands, but

> Reuther lost on all of the "economic" issues of the strike. He had to move much further from his initial wage demand than GM did from its first wage offer, and he failed utterly in his attempt to introduce corporate pricing policy as a proper subject for bargaining or arbitration. The sovereign power of corporate management to make investment and pricing policy—"the very heart of management judgement and discretion in private industry" was protected absolutely. GM did not even have to disclose any of the confidential information on which forecasts and decisions were based.[5]

GM was well satisfied with the settlement it won, not only for its implications for the economic performance of the company, but also because of the agreement's broader significance:

> The corporation had made its point, on behalf of the entire business community, that basic management rights were not negotiable. The scope of collective bargaining had been narrowly

3. NELSON LICHTENSTEIN, THE MOST DANGEROUS MAN IN DETROIT: WALTER REUTHER AND THE FATE OF AMERICAN LABOUR 162 (1995).

4. *Id*. at 166.

5. HOWELL JOHN HARRIS, THE RIGHT TO MANAGE: INDUSTRIAL RELATIONS POLICIES OF AMERICAN BUSINESS IN THE 1940S 140 (1982).

> confined to wages, hours, and working conditions, and even there the corporation's power to take an initiative in instituting was adequately broad.[6]

Most subsequent collective bargaining agreements followed the lead set by the 1945 UAW-GM contract in incorporating a "right-to-manage" clause. From that time on, industrial unions in the United States did not, in general, challenge the principle of management's right to control the development and utilization of the enterprise's productive capabilities. An internal battle was fought over the appropriate agenda for organized labor, but it ended in defeat for the left wing of the U.S. labor movement. The conservative elements of the movement took control and pursued a bargaining strategy that was focused on winning job security, wage increases and fringe benefits for their members.[7]

Even this brief example points to conflicts within the U.S. labor movement about the role of employees in corporate governance. It also suggests the importance at this time of the actions of another group—corporate managers—in thwarting the ambitions of more radical elements of the labor movement. O'Connor alludes to this fact in describing what she regards as another barrier to codetermination in the United States—she claims that "the strong aversion of employers to worker participation in basic entrepreneurial decisions precluded discussion about codetermination—but again, I think she overstates the case. A strong commitment to the sanctity of "managerial prerogative," clearly revealed in the quotes above, shows up over and over again in the annals of U.S. business history. However, U.S. managerial ideology betrays other tendencies too. In particular, we find repeated expressions of the importance of "stakeholders" in corporate activities from prominent corporate managers, beginning at least in the 1920s.

For example, Owen Young, the man who with Gerard Swope assumed the leadership of General Electric from 1922, was forthright in his rejection of the idea that managers were "the paid attorneys of capital" and the understanding of their task as that of squeezing from labor "its last ounce of effort and last penny of compensation."[8] He summarized his view of shareholders in asserting his disagreement

6. *Id*.

7. Harry Katz, *The Decentralization of Collective Bargaining: A Literature Review and Comparative Analysis*, 47 INDUS. & LAB. REL. REV. 3-22 (1993); RONALD SCHATZ, THE ELECTRICAL WORKERS: A HISTORY OF LABOUR AT GENERAL ELECTRIC AND WESTINGHOUSE, 1923-60 (1983).

8. HBS dedication address, *cited in* IDA TARBELL, OWEN D. YOUNG, A NEW TYPE OF INDUSTRIAL LEADER 155 (1932).

with those like William Ripley, a professor at Harvard, who wanted to give them greater control over corporate enterprises:

> Stockholders know nothing about the business nor do they care anything about it. . . . They are only [buying or] selling a commodity . . . if it does not yield them adequate returns, they sell their shares. . . . The carrying on of the business of the corporations, especially those doing big business, should be in the hands of those who are making that business the business of their lives . . . this is my answer to all those, including Professor Ripley, who are demanding money control of corporations and likewise my answer to the socialists who are demanding community control.[9]

Young summarized his aspirations for the future of the corporate economy in the following terms:

> I hope the day may come when these great business organisations will truly belong to the men who are giving their lives and their efforts to them, I care not in what capacity. Then they will use their capital truly as a tool and they will all be interested in working it to the highest economic advantage. Then an idle machine will mean to every man in the plant who sees it an unproductive charge against himself. Then we shall have zest in labour, provided the leadership is competent and the division fair. Then we shall dispose, once and for all, of the charge that in industry organisations are autocratic and not democratic. Then we shall have all the opportunities for a cultural wage which the business can provide. Then, in a word, men will be as free in cooperative undertakings and subject only to the same limitations and chances as men in individual businesses. Then we shall have no hired men. That objective may be a long way off, but it is worthy to engage the research and efforts of the Harvard Business School.[10]

Gerard Swope was less inclined to philosophical statements than Young. As "Mr. Inside" to Young's "Mr. Outside" at General Electric, he took responsibility for production, sales, credit, personnel, prices and research and engineering. Although he and Young took broad policy decisions together, they agreed that, in general, Swope would do as much as possible and Young as little as he could.[11] Nevertheless, Swope shared many of Young's views on corporate control.

Young and Swope became well known in the 1920s in American business circles as influential exponents of the philosophy of corporate

9. JOSEPHINE YOUNG CASE & EVERETT NEEDHAM CASE, OWEN D. YOUNG AND AMERICAN ENTERPRISE: A BIOGRAPHY 371-372 (1982).
10. *Id*. at 374.
11. D. LOTH, SWOPE OF G.E. 131 (1958).

liberalism. Within GE, they supported some important changes in GE's labor policies. One of their most significant contributions was their support for the establishment of works councils in company plants. The labor policies developed at GE during the 1920s, including its system of employee representation, were not unique in American industry, even if they were enlightened relative to the practices of many corporate employers.[12]

Critics of corporate liberalism contended that it was paternalistic and that corporate managers used works councils—derogatorily described as "company unions"—as a means of keeping the real unions out. There is certainly a need to take these criticisms seriously given evidence of important divergence between the lofty rhetoric of corporate spokesmen like Young and the reality of employee involvement in corporate decision making. However, recent revisionist histories of the company union in the United States have argued that such criticisms have gone too far.[13] One way or another, the history of managerial initiatives to give employees some say in corporate decisions in U.S. companies is an element of the history of employees' role in U.S. corporate governance that should not be ignored.

Even these brief examples suggest an important heterogeneity in the United States in labor and managerial perspectives on the appropriate role for employees in corporate governance. That heterogeneity poses a challenge to scholars to explain the crucial developments that brought the United States to where it is today. It also suggests the importance of comparative analysis for shedding light on patterns of corporate governance. Is it really true that the differences in the role of employees in corporate governance in, for example, the United States and Germany is explicable, primarily in terms of stark differences in the ideologies of labor and management?

Codetermination has always been and continues to be controversial among certain elements in the German managerial class. It is true that one can also find strong expressions of support for the institution from influential German managers. Yet, it is difficult to determine whether the latter are more inclined than their U.S. counterparts to believe in codetermination as an abstract concept or whether they have learned to respect it from their experience of working within its framework.

12. *See, e.g.*, SANFORD JACOBY, MODERN MANORS: WELFARE CAPITALISM SINCE THE NEW DEAL (1997).

13. *See, e.g.*, Bruce Kaufman, *The Case for the Company Union*, 41 LAB. HIST. 321-350 (2000).

Sadowski, et al. do not really address these issues in their paper. As I noted above, the primary task that they undertake is an economic analysis of the system of codetermination. The exercise, although fraught with methodological difficulties, is an interesting one, but in the absence of a detailed discussion of the importance of economic factors in shaping the role of employees in the German system of corporate governance, it is difficult to draw out the implications of their analysis. In their introduction to the body of the paper, they allude to the need to link the economic to the political in understanding the emergence and persistence of codetermination, but they don't attempt to address this challenge themselves, even in broad conceptual terms. Lacking any discussion of the historical preconditions for the importance of codetermination in Germany, it is also difficult to come to conclusions for other countries from the results of their empirical inquiry.

One way to increase the contribution that national case studies of corporate governance might make to comparative research on the subject is to forge a tighter link between theoretical and empirical work on the foundations for difference and similarity in corporate governance. Another route, and I am biased towards thinking that it may be a more fruitful one (notwithstanding the difficulties it implies), is for researchers to adopt comparative methods in doing their own case studies. This approach has proven extremely useful in industrial relations research, for example, and there is no inherent reason why it could not be exploited to greater effect in the corporate governance literature. There are, of course, examples of comparative empirical research on corporate governance, although to date, much of the emphasis has been on comparing aspects of governance systems that are easily quantifiable, such as share ownership patterns.

III. CHANGE IN SYSTEMS OF CORPORATE GOVERNANCE

A heightened attention to the preconditions for the historical patterns that we observe in different national contexts would have the additional benefit of sharpening the analysis of recent developments in the role of employees in corporate governance. Without a clear perspective on what it was that allowed a system to be distinctive, it is difficult to say, even after the fact, whether specific changes have transformed the essence of that system. Of course, ideally we might be able to go beyond the implications of what has already occurred to say something about the likely direction that future change will take.

Araki goes to some lengths to describe recent developments in the Japanese system of corporate governance and the role of employees within it. He points to some signs of growing flexibility in the application of certain traditional employment practices by Japanese companies and also highlights some structural developments—for example, changes in labor market dynamics and union density—that have contributed to the overall trends. His conclusion, however, is that the essential foundation of the distinctive role that employees occupy in the Japanese system of corporate governance, which he deems to be employment security, remains intact.

A comparison between Japan and Germany with respect to recent changes in the role of employees would undoubtedly have yielded considerable insight. However, Sadowski, et al. do not deal with these developments in sufficient depth to allow us to understand how much ground employees in the German system of corporate governance have already lost. That is not to say there is no mention of recent developments in the system of codetermination in Germany. However, the discussion that is provided focuses largely on the changes in the legal framework for codetermination that have taken place in recent years. While it is true that the law has played a crucial role in underpinning traditional employees' strength in the German system of corporate governance, studying the question of change from that vantage point alone arguably underplays the extent of the actual changes that have occurred.

The legal institutions that support codetermination in Germany have largely held together until the present. Although the 1994 law that Sadowski, et al. describe exempted certain smaller joint-stock companies from codetermination at the enterprise level, a major overhaul of the Works Constitution Act in June 2001 increased the formal power of works councils by strengthening their rights in areas such as training, employment security, work organization, environmental matters and racism in the workplace. It also simplified the procedures for the election of works councils, a move that is predicted to increase the prevalence of these councils in small- and medium-sized enterprises.[14]

Notwithstanding the fact that on the books, there is no evident deterioration in the system of codetermination; important developments in its practical implementation have substantially

14. For further details of the reform, *see* Martin Behrens, *Works Constitution Act Reform Adopted*, EUR. INDUS. REL. OBSERVATORY ONLINE (July 2001).

weakened its actual implications for corporate control in Germany. Behrens draws attention to this fact by contrasting the recent reform to the Works Constitution Act with the last major reform in 1972: "In 1972, the left-wing government and the unions jointly sought to bring democracy and participation to the shop floor and thus planned to improve the quality of representation. Today, however, it is a major goal of the new works council reform to keep codetermination from deteriorating."[15]

A number of developments have weakened the operational effectiveness of the system of codetermination in recent years. Firstly, the coverage of the institution of codetermination in the German private sector has diminished substantially over time. In 1998, a Commission on Codetermination, funded by the Bertelsmann Foundation and the Hans-Böckler Foundation, reported evidence that showed an important drop in the percentage of employees in the private sector that were represented by a supervisory board and/or a works council. Between the mid-1980s and the mid-1990s, the percentage of employees represented by a supervisory board and a works council fell from 30.5% to 24.5% and the percentage represented by a works council only dropped from 18.9% to 15.0%. Particularly striking was the fact that by the mid-1990s, over 60% of all private-sector employees worked in environments where the institutions of codetermination were entirely absent (*mitbestimmungsfreie Zone*).[16]

The extent of these changes suggests the importance of understanding why they are occurring. A number of reasons have been given to explain the decline in coverage of codetermination, notably the increasing role of small enterprises where the institutions of codetermination have traditionally been weak, as well as structural change in the Germany economy that has favored sectors, especially the service industries, in which traditional forms of worker representation have failed to establish a strong foothold.[17] In parts of the "new economy" that combine both of these characteristics, for example, it seems that works councils were not very common; one study found that only 8 of the 50 companies of the Neuer Markt had

15. *Id*.

16. MITBESTIMMUNG UND NEUE UNTERNEHMENSKULTUREN—BILANZ UND PERSPEKTIVEN: BERICHT DER KOMMISSION MITBESTIMMUNG (Bertelsmann Stiftung & Hans-Böckler-Stiftung eds., 1998).

17. Anke Hassel, *The Erosion of the German System of Industrial Relations*, 37 BRIT. J. OF INDUS. REL. 489 (1999).

works councils, although some of these enterprises had developed alternative collective forms of employee representation.[18]

In addition to the decline in the coverage of the institution, declining union density in Germany is undermining one important source of support for codetermination; union membership as a percentage of employment was 32.2% in 1998, having fallen from 36.2% in 1994, and 40.6% in 1991.[19] Moreover, in the extensive process of restructuring that has been underway in the Germany enterprise sector, employers have been able to win considerable concessions from worker representatives, either in sectoral collective agreements and/or through negotiations at the plant level with the works council.

Decentralized agreements between employers and works councils that guarantee existing production locations (*Standortsicherungs*) have become widespread at the plant and enterprise level. In some cases, these agreements have led to violations of the collective agreements for the industrial sector. In other cases, however, the requirements of the collective agreements are maintained and employers and worker representatives negotiate on matters such as investment, training and employment security. In such cases, managers, as well as workers, have to be willing to make concessions.[20]

It is this capacity to contest unilateral managerial control that continues to set Germany apart from countries like the United States and Britain. However, it is a capacity that although still strong in parts of the economy like the automobile sector in which German companies have traditionally been powerful, has been diminishing for some time for the German economy as a whole. Indeed, with at least 60% of private sector employees operating in the *mitbestimmungsfreie Zone*, one might reasonably claim that discussions of the employee role in the German system of corporate governance must go beyond an analysis of the role of codetermination alone to look at the extent to which employees play a role in influencing corporate decision making, even when codetermination does not apply.[21]

18. Axel Hauser-Ditz & Norbert Kluge, *Mitbestimmung statt Mitbesitz?*, 5 DIE MITBESTIMMUNG 39-40 (2000). The recent decline in the fortunes of these companies may persuade their employees of the merits of codetermination and other elements of the traditional system of employee representation, and there is some anecdotal evidence that this is happening already. *See* Alexandra Scheele & Thorsten Schulten, *Employees at Pixelpark Multimedia Agency Elect Works Council*, EUR. INDUS. REL. OBSERVATORY ONLINE (June 2001).

19. Claus Schnabel, *Trade Union Membership and Density in the 1990s*, EUR. INDUS. REL. OBSERVATORY ONLINE (August 1999).

20. Hassel, *supra* note 17, at 483-505.

21. There is some evidence that *Neuer Markt* companies, for example, have instituted forms of employee representation that resemble works councils. To the extent that this is true, this

If it is relatively straightforward to identify the proximate causes of a weakening in the role of employees in corporate governance in Japan and Germany, it is much more challenging to relate the role of employees in corporate governance to deeper structural transformations in economies and societies. If we focus on the economy, perhaps the most obvious example of such a transformation is the process of globalization. What are the implications of the process of globalization for the role of employees in corporate governance? If this question sounds hackneyed, and it does, this is unfortunately only because there is so much loose talk about the implications of globalization for national systems of corporate governance. As yet, little detailed empirical research exists on the way in which the process has inserted itself into national systems of corporate governance.

O'Connor makes a rather bald statement with reference to this issue for the case of the United States. She notes,

> in the 1950s, managers sided with unions against shareholders because unions had a great deal of political power while shareholders had little power due to collective action problems. By the 1990s, however, union membership declined because it could not prevent firms from relocating abroad to take advantage of sweatshop conditions. In contrast, shareholder power increased as the shareholder revolution pushed managers to focus on the bottom line.

Sadowski, et al., are less convinced, as O'Connor appears to be, that globalization necessarily implies a reduced role for employees in corporate governance because, they suggest, "employee co-determination *need* not be a burden, but *can* also become an asset on a second path to more flexibility" (emphasis in original). Even in two of the papers, therefore, we find different interpretations of the implications of heightened competition for employees' role in corporate governance. However, the sources of the difference of opinion are difficult to determine without further elaboration from the authors. In general, it seems reasonable to ask for greater clarity in analyzing the implications of the changing dynamics of systems of production for national institutions of corporate governance.

Of course, the process of globalization has been as much about a transformation of the role of finance in the global economy as it has been about the dynamics of production. Much has been asserted

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raises the question of differences in systems of corporate governance once again. Specifically, if we move outside of the codetermined structures in Germany, how different is the role of German employees in enterprises compared with their U.S. and Japanese counterparts?

about the implications of the growing integration of global financial markets for national systems of corporate governance, but careful attention to its implications for employees' role in corporate governance is still all too rare. At least one influential commentator on the matter, Wolfgang Streeck, has cautioned against drawing black and white conclusions on this matter. Noting that "growing attention of firms to 'shareholder value' is often expected to undermine cooperative labor relations, and eventually jeopardise European institutions of industrial citizenship," Streeck claims that this perspective ignores the fact that certain elements of shareholder value "are quite compatible with worker interests and cooperative labor relations, or can be made so compatible."[22]

One of the elements that Streeck believes can potentially permit cooperation between shareholders and employees is employee share ownership and it is a view that became quite common in Europe from the late 1990s, and one that echoes one that has long been aired in the United States. There has been growth in employee shareholding and, more generally, in households' holdings of shares in various European countries. For example, German companies have made growing use of employee shares. According to figures available from the Deutsche Aktieninstitut, 1.6 million Germans held employee shares in the middle of 2001, compared with 1.7 million in 1998, 1.5 million in 1994 and 1 million in 1988. The rate of growth in employee shareholding has therefore been steady, but not spectacular and, as with stock options, the penetration of employee shares in Germany is as yet far lower than in the United States and Britain.

In terms of the relationship between new forms of employee compensation and the traditional institutions of employee representation, Jürgens and Rupp note that within the German labor movement "there is ongoing discussion on whether, for example, employee shares can play an important role in company policy as a blocking minority in the event of hostile takeover bids. There is also discussion on whether it may be advisable to organize holders of employee shares in specific shareholder associations to underpin statutory co-determination."[23] No such association existed in Mannesmann, but the works council asked employee shareholders not to sell their shares when Vodafone made its hostile bid for the

22. Wolfgang Streeck, *The Transformation of Corporate Organisation in Europe: An Overview*, paper presented at the Conference of the Saint-Gobain Foundation for Economic Research (November 9 & 10, 2000).

23. Ulrich Jürgens & Joachim Rupp, *The German System of Corporate Governance—Characteristics and Changes*, CGEP Paper (January 2001).

company. However, the council's appeal was apparently unsuccessful since most employee shareholders sold their shares. Employee shareholder associations have been organized at Siemens, Salzgitter and Lufthansa, although evidence that they can play a strong coordinating role for employee shareholders has not yet been forthcoming.[24]

What the future might hold for the relationship between employee shareholding and corporate governance depends in part on the extent to which employees and their representatives can take greater advantage of their financial influence to shape corporate decision making. O'Connor's paper provides a good vantage point for thinking about these issues because she goes to considerable lengths to explain the difficulties that unions have faced in attempting to leverage the power of labor's capital in the United States. Is employee shareholding the right direction for Europe in light of recent developments in the U.S. stock market? Could the situation be different in Europe than in the United States? Is it possible to give workers a greater say in how money accumulated on their behalf is invested? How much difference would it make to corporate decision-making processes? Is it desirable that proponents of an important role for employees in corporate governance go down this path?

24. Martin Höpner & Gregory Jackson, *Political Economy of Takeovers in Germany: The Case of Mannesmann and its Implications for Institutional Change*, Working Paper, Max-Planck-Institut für Gesellschaftforschung (February 2001).