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Originally published in Industrial relations journal, 32 (4), 280-294 © 2001 Blackwell Publishing.

You may cite this version as:

Hyman, Richard (2001). The Europeanisation – or the erosion – of industrial relations? [online]. London: LSE Research Online.

Available at: <http://eprints.lse.ac.uk/archive/00000751>

Available online: May 2006

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The Europeanisation – or the Erosion – of Industrial Relations?¹

Richard Hyman

This article considers the impact of European integration on industrial relations. An industrial relations regime can be understood as a tension between employment structured by market dynamics and broader social regulation, between the principles of contract and status. Economic Europeanisation threatens this relationship. Its survival may depend on new forms of supranational regulation, but not necessarily as the ‘social dimension’ of Europeanisation is customarily conceived.

Introduction

This contribution attempts to connect a number of themes which to my mind are conceptually more elusive than is commonly assumed, and are today empirically more problematic than when industrial relations was invented (both in the material world ‘out there’ and in the intellectual world of academic analysis). These include the character of employment regulation, the nature of labour markets, and the relationship between status and contract. The articulation between these

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¹ An earlier version of this article was presented as a plenary address to the British Universities Industrial Relations Association annual conference at the University of Warwick in July 2000.

themes is at the heart of the architecture of industrial relations systems and the analytical coherence of our field of study. This articulation, always primarily national in character, is itself put in question by cross-national economic integration. Economic Europeanisation may thus spell the erosion rather than the Europeanisation of industrial relations.

The possibilities, and the prospects, for the creation of a supranational European industrial relations system have been intensely debated for more than a decade. Towards the end of this article I will address some of these debates. However I am convinced that before we can address the usual agenda of industrial relations Europeanisation it is essential to review our understanding of the nature of industrial relations at national level. My conception of industrial relations is as a field of tension between the economic construction of the employment relationship and broader social constraints on its economic character, the latter primarily nationally specific. Hence my premise is that only in limited respects do 'labour markets' actually constitute markets. Across the countries of the EU, employment regimes (or industrial relations systems) represent varieties of institutional structures which ensure that the employer-employee relationship is not primarily determined by market forces. To speak of labour markets is to embrace, or to imply, a serious misconception of the nature of employment relationships; and implicitly to cede a key ideological vantage point to those whose model of an ideal integrated Europe is that of a continental marketplace.

My formulation of the central issue is therefore: how robust, in the context of European economic integration, are those civilising institutions which ensure that labour markets are not really markets? We may identify at least three types of pressure – from the intensification of cross-national competition in product markets, from the increasingly strategic and calculative decision-making of large transnational enterprises, and from the deregulatory initiatives of many governments – which by accident or design may be seen as making labour markets more like markets: tilting the balance within European 'social market economies' away from the social. How radical is the shift towards market forces in the determination of the employment

relationship? Is it desirable that European labour markets should become more like markets? Or if institutional protections against the damaging effects of unfettered market dynamics remain necessary, but at purely national level are losing their efficacy, what are the implications for regulatory intervention at supranational level? Ever since Commons (1909/1968) it has been a familiar argument that the boundaries of employment regulation are shaped by the scope of product markets; but there is nothing automatic in this process. To expand regulatory frameworks when narrower mechanisms are undermined by the extension of markets is a challenge and a struggle, often in the face of resistance. This is quite evidently the case with any project for a European industrial relations regime.

Labour: The ‘Fictitious Commodity’

Is the labour market a market like any other? And if so, what is the commodity that is exchanged in return for the wage or salary? Economists, and also lawyers, have long struggled with these questions. The employment contract is of necessity open-ended. Buy a kilo of potatoes and they become physically your property, while the seller parts company with them for good. But the employer does not buy a worker: that is what distinguishes wage-labour from slavery. Nor, typically, does an employment contract specify an amount of work to be performed: the flow of assignments in any job is to a greater or lesser extent unpredictable.

For this reason, as Marx insisted, labour as such is not a commodity; what the worker sells is his or her ability to work, or ‘labour power’. But here too there is imprecision: no contract can define the amount of energy to be expended, care to be taken, initiative to be displayed. The employer’s requirements are rarely predictable in fine detail; managements therefore benefit from retaining a (usually wide) margin of discretion; conversely ‘detailed job descriptions are not economic’ (Marsden, 1999: 15). Hence in most cases a worker agrees, as part of the employment contract, to be physically present on the employer’s premises for a period of time which may or

may not be precisely specified; and to comply with the 'reasonable' requirements of management in accordance with 'reasonable' standards of diligence and efficiency.

What counts in law as 'reasonable' (or more often, as unreasonable) has to some extent been indicated by the courts (certainly in different terms in different national jurisdictions). However, the legally underwritten authority of the employer is in itself of limited practical effect, for few employing organisations can function without the active commitment and goodwill of the workforce. In reality, then, the content of the employment contract tends to be determined by customary standards of 'a fair day's work' and by the balance of mutual dependence between employer and employee (itself affected by the shifting forces of supply and demand in the external 'labour market', as well as by product market pressures). Under normal conditions, the fine detail of what is performed in exchange for a wage or salary is continuously subject to usually tacit negotiation.

Continuous negotiation is omnipresent for a different reason. Because the employee, unlike the owner of potatoes, cannot permanently alienate his or her 'commodity', any employment contract is in principle terminable. Even a 'permanent' contract is subject to a period of notice on the part of the employee, and usually the employer also. Commons (1924: 285) stated the position starkly: the contract of employment 'is not a contract, it is a continuing implied *renewal* of contracts at every minute and hour.... The laborer is thus continuously on the labor market – even while he is working at his job he is both producing and bargaining, and the two are inseparable.' From the employer's perspective, Mitchell (1998 :25-6) has referred to a 'strategy of contingent renewal' underlying 'the employer-employee relationship [as] an archetypal form of contested exchange'. In most employments, of course, the default option is to maintain the existing relationship; the 'implied renewal' is rarely a question of conscious decision. Nevertheless, this temporal dimension is another factor underlying the peculiar status of the labour market. Paradoxically, indeed, the more a market logic pervades the employment relationship – the more that either party gives priority to a short-term calculus of costs and

benefits, and hence devotes as much energy to bargaining as to producing – the less does this relationship accord with conventional ideas of commodity transactions as precise exchanges and the less likely is it to contribute to productive efficiency.

One further peculiarity of the employment relationship deserves emphasis. The contract of employment pertains to the worker as an *individual*; yet normally the performance of work, and hence the employment *relationship* more broadly defined, involves the workforce as a *collectivity* – what Marx termed the ‘collective labourer’. There is thus a disjuncture between the formal basis of employee obligation, and the reality of productive relations at work (Erbès-Seguín, 1999: 217; Friot, 1999: 207). (This disjuncture is of course one reason for the often counterproductive effects of attempts to apply ‘performance-related pay’ on an individual basis.)

For all these reasons, labour is a ‘fictitious commodity’ (Polanyi, 1957). Yet in a different sense, the employment relationship also demonstrates a more general problem underlying purely economic conceptions of market relations. As Durkheim famously insisted (1933: 211-5), not everything in a contract is contractual: ‘a contract is not sufficient unto itself, but is possible only thanks to a regulation of the contract which is originally social’. Every market system is necessarily ‘embedded’ in a structure of social relations: ‘the anonymous market of neoclassical models is virtually nonexistent in economic life and... transactions of all kinds are rife with... social connections’ (Granovetter, 1985: 495).

Empirically, and probably also logically, a totally ‘free’ market is impossible. Historically, markets emerged as merely ‘accessories of economic life. As a rule, the economic system was absorbed in the social system.’ In all early capitalist societies, production and distribution were tightly regulated by traditional norms and by specific statutory controls: ‘regulation and markets, in effect, grew up together’ (Polanyi, 1957: 68). The form of this symbiosis, however, varied in particular according to national context; and in consequence, actually existing capitalism assumes many different national configurations with considerable variation in the institutional embeddedness of markets (Crouch and Streeck, 1997).

Partly in consequence, the concept of a market is itself elusive; it ‘has taken on so many meanings that the success of any reference to it might be attributed to very loose and partially contradictory definitions which inevitably vary from one culture and language to another’ (Boyer, 1996: 96). In his classic analysis of the historical evolution of capitalism, Polanyi made a threefold distinction. In virtually any complex society, *markets* – the purchase and sale, or exchange, of products on the basis of some standardized notion of value – have played some role in economic life. He defined a *market economy* however as something far more specific: ‘an economic system controlled, regulated and directed by markets alone’ (1957: 68). Within a *market society*, such an economic system derived ideological legitimation from the predominance of values exalting individual freedom of contract and the self-interested pursuit of maximum economic returns within competitive markets. As Marx famously described it, in such an environment the ‘fetishism of commodities’ dominates social relations.

For Polanyi, the creation of a market society was ‘entirely unnatural, in the strictly empirical sense of *exceptional*’ (1957: 249). The paradigm case was Britain in the late eighteenth and early nineteenth centuries, where the establishment of a regime of economic liberalism reflected an immense *effort* on the part of its protagonists. ‘There was nothing natural about *laissez-faire*; free markets could never have come into being merely by allowing things to take their course.... *Laissez-faire* itself was enforced by the state’ (1957: 139). Or as Gray has recently put it (1998: 7, 17), ‘it was an artefact of power and statecraft.... Free markets are creatures of state power, and persist only so long as the state is able to prevent human needs for security and the control of economic risk from finding political expression.’

One may note that the widespread moves in the 1980s and 1990s to re-establish such principles on the basis of ideologies of neo-liberalism have involved efforts in some ways similar in character, and are therefore quite wrongly described as ‘deregulation’ (Standing, 1997). To take the British example again, the ‘withdrawal’ of the state from economic regulation actually involved the systematic intervention of government in economic affairs and required an

unprecedented increase in the societal pervasiveness of state power. As even more dramatically evidenced in Pinochet's Chile, Chicago-school market liberalism could be imposed only by a massive and brutal explosion of state coercive power. The outcome of intensified market pressures, moreover, has not been to establish an impersonal economic regime but rather to reconfigure the balance of social (and class) forces. 'Deregulation' actually consecrates new rules: intensifying the law of value, with effects which empower some economic actors while disempowering others (the majority).

Thus despite neo-liberal ideology, the state is unavoidably an actor in market economies. 'Far from being an unnecessary interference, the state is a normal feature of real markets, as a precondition of their existence. Markets depend on the state for regulation, protection of property rights, and the currency' (Sayer, 1995: 87). At a different level, as Polanyi expounded in detail, state regulation – in particular of employment relations – has been pursued in most market economies as a means of restricting the scope for a 'free market' in labour. 'The labor market was allowed to retain its main function only on condition that wages and conditions of work, standards and regulations should be such as would safeguard the human character of the alleged commodity, labor' (1957: 177). Unrestricted freedom of contract between employers and workers was generally regarded as unacceptable, whether on humanitarian grounds or from concern at the potential social disruption and disorder which might ensue if competition were to drive standards below a certain threshold. In most actually existing capitalisms, the state has performed an active role both in encouraging the operation of the market and in limiting its capacity to shape the conditions of employment.

Hence in market societies, the wage-labour relation is the product of social and political as well as purely economic forces; or rather, the economic context of employment is itself constituted by social and political structuration. Political economy, as Thompson insisted in his analysis of social protest in the early era of British capitalism, has to come to terms with a 'moral economy' grounded in the powerful hold of 'social norms and obligations' (1971: 79). In more

recent times, 'objectives of social equity and redistribution in order to off-set the inequalities of income and power produced by the market have been at the centre of the social contract that, in one way or another, has characterized most European countries since the Second World War' (Regini, 2000: 12). Hence markets are subject to at least three potentially conflicting types of determinant: the forces of supply and demand which economists conventionally regard as alone significant; the policy interventions of governments, which are essential at a minimum to guarantee the routine operation of market relations; and the social norms which influence market actors, often in ways which cannot be comprehended in terms of simple material self-interest.

The Development of Industrial Relations Systems: 'Institutional Decommodification'

Only if we appreciate the nature of labour as a 'fictitious commodity' can we properly understand the role of industrial relations institutions. We may define industrial relations as the regulation of work and employment, provided that we understand regulation (control by rule, according to the dictionary) in its broadest sense as encompassing a complex web of social processes and a terrain of actual or potential resistance and struggle.

It is useful to analyse industrial relations in terms of three sets of distinctions, social processes and structures of relations which may be complementary but are often contradictory.

First of all, industrial relations involves various forms of social regulation which refract and transmute the purely economic dynamics of the employment relationship. In every national regime there is always some type of interaction (though rarely an equilibrium) between 'social' and 'economic' regulation. As already argued, 'labour markets' are not markets in the normal sense of the word, since labour is not a commodity like any other; and 'normal' markets are themselves social constructs and mechanisms of social power. A productive system resting solely on a cash nexus is inconceivable – as the efforts to invent a 'pure' market economy in eastern Europe clearly demonstrate. Nevertheless, the degree to which forces of supply and demand shape employment relationships varies substantially according to time and place. Historically, the

effort to construct national industrial relations systems, certainly in western Europe, has typically involved the strengthening of social regulation, subjecting market forces to collectively determined rules.

Second, industrial relations involves an interaction between substantive and procedural regulation. National systems may function primarily by specifying at least basic standards in the employment relationship (minimum wages, maximum working time and so on) or by identifying actors and defining processes of interaction through which substantive rules are to be constructed. The former may result in relatively standardised and encompassing regulation; the latter in relatively differentiated and uneven outcomes. Traditionally the British system was marked by the priority of procedural over substantive regulation (Flanders, 1970); in most other European countries the traditional balance has been very different.

Third, we may distinguish three different modes of social regulation. One is founded on legislation and other types of state intervention, another on agreements (or contracts) negotiated through collective bargaining. The contrast between statutory and ‘voluntary’ regulation is familiar, though somewhat misleading. ‘Free collective bargaining’ more often than not rests on statutory definitions of representativity, of rights of collective organisation and action, and (where this exists) of the contractual status of agreements. Conversely, legal regulation is usually of limited practical effect unless embedded in some degree of internalisation by the industrial relations actors; in a sense, its application is always negotiated. A third, more diffuse source of social regulation is less frequently discussed: the norms, beliefs and values prevailing within civil society: what Regini (1995: 5) calls ‘communitarian regulation’. An example would be the traditional acceptance by a substantial proportion of German employers of an obligation – not mandated by law or collective agreement – to take on new apprentices in order to sustain the pool of workforce skills and supply high-quality job opportunities to school-leavers. This complex of norms, beliefs and values, it should be emphasised, is not necessarily a consensual ideology as in the Dunlop (1958) model of an industrial relations system; rather, it is commonly a terrain of

ideological struggle. The outcome of such normative struggle can help shape both law and collective bargaining.

It follows that an industrial relations system is a field of tension between market pressures towards the commodification of labour (power) and social and institutional norms which ensure its (relative) 'decommodification' – a term I borrow from Esping-Andersen (1990). It is an arena in which the contest between the pursuit of a 'market society' and the defence of principles of 'moral economy' is played out. The uneasy accommodation between these principles has assumed distinctive (and often idiosyncratic) national characteristics but also a number of common features in much of western Europe as a result of the class compromises struck half a century ago. Underlying such compromises, as Streeck has indicated, was an evolution of the employment relationship involving various forms of '*constellation* of contract and status' (1987: 291). The rights and security of employees rested predominantly on non-contractual (and often legally prescribed) foundations; the rights of employers on the (socially and normatively bounded) authority deemed to be inherent in the employment contract. A parallel feature is that 'the mass of rules, implicit and explicit, written and unwritten, that act as the contract of employment at any moment for any particular employee may be determined by many different agencies' (Brown and Rea, 1995: 366).

The accommodation of these differentially based structures of rights and obligations of employers and employees became institutionalised, within the different European economies, in ways which could be seen as reconciling social justice and economic efficiency. Underwriting employee status and security often encouraged the development of trust in the employment relationship and made for cooperative orientations within the productive process. The long-term perspectives embodied in the predominance of status over contract – as in economic activity more generally, for example in relationships between major firms and their component suppliers or with their banks – contrasted with the notorious Anglo-American 'short-termism'. The constraints on the option of pursuing transient economic advantage (whether these derived from legal

prescription or more diffuse norms of behaviour) could be seen as ‘flexible rigidities’ (Dore, 1986) which provided a secure framework for consensual change in technology, production methods and work organisation.

Here are central elements of what is often identified as ‘Rhineland capitalism’ or the ‘European social model’ (in some accounts, encompassing ‘Tokyo-am-Rhein’): an explicit legal protection of status as well as contract; a recognition of a wider range of ‘stakeholder’ interests with legitimate influence over corporate decision-making than those of shareholders alone; and, partly as a corollary, an acceptance (again, often legally enshrined) that such interests could be aligned only on the basis of organised collective representation (Albert, 1993; Hutton, 1995). The background in Britain is in many respects very different, given the tradition of ‘voluntarism’ which severely limited the explicit statutory definition of employee rights. Nevertheless, where collective organisation was strong and collective bargaining robust, the status rights which applied *de jure* in much of western Europe were achieved *de facto* in this country; that was why most trade unions were comfortable with the existing system.

There were of course two main weaknesses inherent in this route to employee protection against market disciplines. First, as the Webbs insisted over a century ago, market regulation through countervailing power was conditioned by the fluctuating (im)balances between supply of and demand for various types of productive capacity (and also, of course, on the degree to which the social and political environment was favourable to collective mobilisation). Circumstances over many decades encouraged a complacency on the part of British trade unionists that in both respects they were well placed to ‘play the market’. Second, the more that a market logic predominates in industrial relations (and ‘collective *laissez-faire*’ may be regarded as a variant of this logic rather than as an alternative), the more likely it is that outcomes in terms of status and reward will be shaped by inequalities before the market. Those already disadvantaged (by gender or ethnicity, for example) will suffer further, probably in their access to collective organisation and almost certainly in the terms of their exchange with employers. More institutionalised and

formalised collective rights make it possible to counteract social inequalities external to the market – though they do not automatically do so, and may indeed actually reinforce such inequalities.

New Production Regimes: From Status to Contract?

The existence of institutionalised industrial relations systems is both an indicator and a guarantor of the restraints on purely market dynamics in the employment relationship. The idea that the rise of capitalist industrialisation and the consolidation of waged labour as the overwhelmingly predominant form of productive work involved a simple transition from status to contract was always misconceived. As Streeck has insisted, contracts existed in the pre-capitalist epoch, while ‘status powerfully survives even and especially in modern society’ (1992a: 43).

Yet is economic internationalisation accomplishing what previous epochs of capitalist development failed to achieve: the transition to a market society and within this the genuine invention of a labour market? It is common to argue that the architecture of status and contract established in the various national post-war settlements was appropriate to a ‘Fordist’ regime of stable and predictable technologies and product markets, but inhibited the far greater flexibility and adaptability demanded by a more dynamic production model and a more unstable competitive environment. For Streeck (1987: 292-5), the latter entailed pressures towards two opposed types of redefinition of the employment relationship: either a reinforcement of status by the incorporation of employees within the ‘company community’ as members whose status entailed both rights and responsibilities; or the reaffirmation of contract by eroding employees’ status rights and basing managerial authority on the naked power to hire and fire. Employers, Streeck added, might apply differentiated treatment to core and peripheral segments of their workforce.

Much of the experience of the subsequent dozen years appears to confirm this analysis in part but to qualify it in important respects. Until recently it was plausible to analyse national

production regimes in terms of either cost or quality competition. The more that cost-competitive priorities predominated, the more market-like were labour markets. Employers relied primarily on low-skilled, easily replaceable labour subject to Taylorist work disciplines, and responded to fluctuation in product markets through a policy of hire-and-fire. Quality competition, by contrast, involved a more proactive integration of product design, marketing and personnel policy, with a readiness to invest in both production capacity and employee skills, and a view of the employment relationship as a long-term reciprocal commitment. Such a stereotyped dichotomy was of course always an oversimplification: each competitive model contained internal contradictions, and national regimes were to varying degrees internally differentiated. Nevertheless, this presentation of alternative routes to capitalist success did hold a certain plausibility.

But one consequence of intensified product market competition is that successful firms must be *both* cost- *and* quality-competitive. Streeck's prediction of a growing polarisation between management by contract and management by status seems in important respects contradicted by the responses to hard times of major European employers. The new regime of labour management attempts to combine traditional status-based employee commitment to corporate success with a harsher contract-based approach to workers as disposable assets. The ambivalence of this model is displayed in the fashionable concept of 'human resource management', which at one and the same time recognises that employees are human beings and dehumanises them by defining them as resources. As many writers have emphasised, human resource management has both a hard and a soft face. The latter focuses on employee development, career enhancement, recognition of workers as stakeholders in the corporate community; the former, on subordinating labour management to overall business strategy and on continuous reduction in 'head-count' as an index of managerial efficiency. Similar contradictions can be observed in the dynamics of business organisation more generally. On the one hand there is a powerful rhetoric of social responsibility as the core of corporate identity; on the other, a

growing emphasis on the 'lean organisation' which externalises risks by contracting out a repertoire of activities once undertaken in-house. One important consequence is that many direct employment relationships have been transformed into indirect ones, mediated by subcontractors whose own status is one of vulnerable dependency, or have themselves become individual 'contracts for services' without formal employment status.

This means that market forces increasingly pervade the employment relationship, even where status defences were traditionally dominant. 'The terms of the quid pro quo that originally underpinned wage-employment status – i.e. subordination for security – have broken down' (Supiot, 1999: 336). The internationalisation of capital itself is a major driver of this process. Anglo-American conceptions of 'shareholder value' increasingly infect business philosophy in countries where the European social model once seemed firmly entrenched. Central management in multinational corporations subjects local operations to tight budgetary constraints and benchmarks 'best practice' in employment relations in ways which reinforce the trend to a new contractualism. 'Rhineland capitalism' appears increasingly precarious. Hence new production and competitive regimes may be understood as encouraging the transformation of the labour market from fiction to reality.

European Integration: A Project of Market-Building and a Challenge to National Industrial Relations Systems

European integration can be seen as both a response to such trends and a means of reinforcing them. From the Treaty of Rome onwards, what is now the European Union was primarily a common market. Its central rationale was to aggregate the patchwork of European economies into a single bloc which could effectively counterbalance the American challenge. The effort, three decades later, to 'complete' this exercise through the Single European Act reflected a new dynamic towards economic internationalisation: the process some term 'globalisation' and others

‘regionalisation’ or ‘triadisation’ (the EU, together with North America and the Asian-Pacific, constituting the three main poles of cross-national trading activity).

The key features of ‘globalisation’ are familiar. One is the intensification of cross-national competition, as new competitors make inroads in product markets once dominated by a small number of European and North American economies. The second is the internationalisation of production chains within multinational companies (MNCs) detached from the regulatory frameworks of national industrial relations systems. The visible hand of the MNCs interacts with the increasingly coercive invisible hand of finance capital. The last three decades have seen a radical transformation: the liberalisation and deregulation of international capital and currency markets; the acceleration of transactions (to the point of virtual instantaneity) as a result of advances in information and telecommunications technologies; and the breakdown of the American-dominated post-war system of international monetary stabilisation. The result is a highly volatile pattern of capital flows. Unpredictable (speculative) fluctuations in the paper values of company shares or national currencies are translated into disruptive instability in the physical economy.

The EU, as a market-making project, was intended to constitute an economic space large enough to permit the economies of scale for European companies to remain viable in world markets. A corollary was however the end of many of the ‘national champions’ which had provided a stable basis for industrial relations in much of western Europe, for one of the aims of the Single Market project was an acceleration of foreign direct investment between EU countries and a rapid process of corporate consolidation through mergers, take-overs and joint ventures.

In previous decades, the ‘problem of the multinationals’ for European trade unions was relatively narrow and specific: how to contain foreign-owned (primarily American) MNCs within the regulatory frameworks of European industrial relations systems. In the 1990s the problem became broader and more serious: the internationalisation of significant segments of ‘national capital’ and the potential abandonment by key companies of their traditional role within a

national system of 'social partnership'. The most dramatic instance, perhaps, was the case of Sweden: the major employers in effect 'joined' the EU long before the country's formal accession, and demolished the classic centralised 'Swedish model' of industrial relations the better to pursue more company-specific and internationalised employment policies. In most other European countries, analogous pressures are apparent.

The growing importance of the 'Euro-company' (Marginson and Sisson, 1994) threatens established forms of national cross-company standardisation of which the sectoral collective agreement has been the principal instrument. Hence the fear of 'social dumping': that companies will shift production from countries with high wages and rigorous labour standards to those where labour costs and regulations are lower. Whether or not 'social dumping' is a serious reality, there is certainly evidence that many MNCs use the *threat* of relocation as a disciplining factor in collective bargaining. A different challenge stems from the fact that while MNCs typically devolve significant operational autonomy to local units, they normally establish a competitive internal regime, seeking to diffuse 'best practice' across all subsidiaries (Ferner, 1998). This has reinforced the shift towards 'flexible' forms of work organisation, working time, task allocation and payment system, all of which have been core elements in the standardised rules defined by national law and collective bargaining, reinforcing the shift from status to contract.

As for the new coercive force of global capital markets, it was in part in response to their volatility that the EU adopted the EMU project. The Hobbesian solution to the new anarchy of international finance was to appoint a sovereign: the European Central Bank (in large measure the *Bundesbank* writ large), its disciplines reinforced by the 'convergence criteria' defined at Maastricht. This entails a coercive alignment of fiscal and monetary regimes, embodying principles which are highly deflationary in their implications. To meet the requirements of monetary union, governments across Europe have been spurred to impose new constraints on public employment and restrictions on the 'social wage'. The consequence has been an increasing pressure on the principles of 'social partnership' typical of most European industrial relations

systems.

One way of conceptualising the developments of recent years is as a form of ‘denationalisation’ of industrial relations. Industrial relations in most countries emerged initially on a local or sectoral basis (reflecting the contours of labour markets) but in the twentieth century became consolidated within a national institutional framework. The national embeddedness of industrial relations systems was for a long period – at least in many cases – a source of resilience and strength, but can increasingly be regarded as a weakness. Industrial relations, as we understand the term today, was an invention of the era of the pre-eminent nation-state. In most western European countries, ‘modern’ systems of industrial relations became consolidated in a context of relative job security (at least for a substantial core of primarily male manufacturing workers in larger firms) under macroeconomic conditions of ‘full’ employment, often buttressed by legal supports. This was in turn facilitated by stable or expanding demand in key product markets and by institutional and other constraints on destructive market competition. The organised capitalism which achieved its high point in the 1950s and 1960s helped establish trade unions as central actors in a variety of national systems of employment regulation. The relative autonomy of the national polity and economy was the context of the distinctive national systems of employment regulation.

The institutions established in the formative period of European industrialisation, and the various Keynesian-influenced systems of post-war macroeconomic management, depended on the regulatory capacity of the nation-state. It is indeed true that in most European economies the key importance of the export sector ensured that industrial relations policies were consistent with international competitiveness. Nevertheless the national state, and the parties to collective bargaining, could address the labour market as a more or less closed system. The diversity of industrial relations systems exists precisely because all such systems involve *national* relationships between *national* actors.

The consequence of cross-national economic integration is that market dynamics are

increasingly subject to external determination. Heightened international competitiveness in product markets, the external imposition of policy constraints on governments, and the locational decisions of MNCs, all enforce new, onerous and often unpredictable constraints on the agenda of national industrial relations.

It is evident that all three elements of social regulation previously identified as the basis of industrial relations systems are affected by these trends. Regulation by collective bargaining loses efficacy – even when, as in most of western Europe though no longer in Britain, it remains formally in place for the majority of employees – in the face of the coercive comparisons inherent in economic internationalisation. One feature has been the pressure towards increasingly flexible collective norms, allowing enhanced scope for managerial discretion. Another is that whether negotiation occurs primarily at company, sectoral or macroeconomic level, it seems increasingly to display aspects of concession bargaining.

The will or capacity of national governments to impose employment regulation is also weakened. Political enthusiasm in most European countries – and also at EU level – for ‘flexibility’ and ‘deregulation’ as the best recipe for competitiveness has reinforced, and helped legitimate, the advance of contract and the erosion of status in employment. British governments of course led this offensive, and the 1997 election brought only limited change in the regard: in introducing Labour’s programme of industrial relations legislation, Blair proudly (and for some of us, notoriously) declared (1998: 3) that ‘even after the changes we propose, Britain will have the most lightly regulated labour market of any leading economy in the world’. However, the British sickness seems to have proved contagious; and the process has enhanced the capacity of MNCs to establish company-specific regimes, cutting across and potentially undermining the regulatory capacity of national industrial relations systems. ‘Deregulation’ has also consolidated the rule of central banks and other financial institutions, imposing disciplines which are inherently antagonistic to the principles of social protection and social partnership which underlie most European industrial relations systems.

These developments in turn erode the force of the more intangible norms and values which have underpinned the European social model and provided a foundation for employee status. The products of a thousand MBA factories who increasingly drive corporate decision-making and colonise the corridors of political power waste little time on such sentimentalities. And indeed, one consequence, perhaps intended, of the cross-national circulation of senior MNC managers is to insulate them from the nationally-specific codes of behaviour which formerly underpinned different business systems. Corporate decision-makers are thus detached from the nationally-based networks of collective employer solidarity and the norms of moral economy which have typically underpinned the regulatory effectiveness of national industrial relations systems; their market-governed decision-making is increasingly 'disembedded'.

It would be dangerous and wrong to embrace too economic-determinist a reading of current tendencies, which contain ambiguities and contradictions. The transnational intensification of market forces has real and important implications which challenge the regulatory capacity of industrial relations regimes at national level; but ideological deployment of ideas of deregulation (as, more generally, that of globalisation) helps create a fatalistic and self-fulfilling presumption that 'there is no alternative'. Discovering alternatives is, on the contrary, the proper task of industrial relations analysis.

The Challenge for Labour: Re-Inventing Industrial Relations Cross-Nationally

Can effective social regulation of employment, under challenge at national level, be reconstituted supranationally? Is Europe the level at which labour, through its 'thickening network of transnational union activities' (Martin and Ross, 1999: 313) can respond successfully to the challenge that 'a reinforcement of uniform employment *status* is necessitated precisely by the differentiation of employment *contracts* (Grahl and Teague, 1994: 387)? Indeed is a European industrial relations already taking shape?

The debate on the possibility of an effective industrial relations regime at EU level

(‘social Europe’) has persisted for a decade or more and has generated a polarisation of views. One approach, often explicitly linked to ‘spillover’ theories of the consolidation of the European polity, develops an optimistic assessment of the EU as a vehicle of social regulation of the internationalising labour market (Falkner, 1998). In Dunlopian terms, the existence of European-level ‘actors’ whose interactions result in an output of rules (the 1991 ‘social partners’ agreement’, the employment directives adopted under the Maastricht procedures for ‘negotiated legislation’, or the creation of European Works Councils as new supranational institutions with regulatory potential) provide evidence of the birth of a European industrial relations system (Jensen et al., 1999; Lecher and Rüb, 1999). ‘Subsidiarity’ may have obstructed the process of comprehensive employment regulation but has also encouraged the development of a strong regional dimension within the EU, creating new space for labour movement intervention. In addition, the various programmes covered by the EU structural funds have an important redistributive role, doing something to offset the dynamic of uneven development and counteracting a purely market logic of integration. Most recently, the pursuit of an employment strategy has resulted in decisions which could be dismissed as tokenistic but could equally be acclaimed as the foundations of a new, counter-deflationary European regime; while the introduction of the single currency has created new pressures towards the cross-national coordination of collective bargaining (Goetschy, 1994, 1999; Jacobi, 1996; Marginson and Sisson, 1998).

An alternative assessment is far more pessimistic: the EU has emerged through a process of ‘negative integration’ with the priority of facilitating pan-European market relations, and a liberal economic regime provides a terrain on which transnational capital can divide and rule. Investment flows to those national labour market regimes which offer the best prospects for accumulation, encouraging a competitive undercutting of national collective bargaining and national welfare states. An effective EU structure of employment regulation might limit such pressures, but seems scarcely attainable precisely because some national governments perceive

advantages in regime competition. There is thus a powerful if usually tacit coalition between some (many?) national governments and key agents of capital. European labour is itself divided, and even if united would be the weaker party fighting against the inbuilt bias to market liberalism which underpins European integration. 'Social Europe' is a matter of form rather than substance (Streeck, 1992b, 1994, 1995, 1997, 1998; Streeck and Schmitter, 1991; Visser, 1998).

Others again seek a third way, proposing a 'Euro-realist' perspective which recognises the modesty of achievements in European social regulation but without dismissing these as insignificant (Buda, 1998; Ross, 1994). There is scope for further progress, partly because the evidence for the 'social dumping' argument is unconvincing; labour costs do not appear to be the main determinant of locational decisions by MNCs. If regime competition remains bounded, this allows scope for sustaining regulatory frameworks at national level while constructing an architecture of cross-national regulation.

It is not my aim here to review these controversies in any detail: this would require far more space than is available here, and in any event my focus is rather different. Part of the difficulty is the contradictory institutional formation which is the EU: a 'unique and uniquely complex system of governance' (Streeck and Schmitter, 1992: 151). It comprises a Parliament which is not a legislature, a Commission which is a 'policy entrepreneur' (Majone, 1998: 24) and the intermittent bearer of a federalist project which would facilitate a meaningful European industrial relations system (one possible translation of that elusive term, *espace social*), and a Council in normal circumstances firmly committed to restrain such ambitions. The result is a 'regulatory conundrum' (Rhodes, 1995) within a set of processes that 'hovers between politics and diplomacy, between states and markets, and between governments and governance' (Laffan, 1998: 236). There *may* be scope for a cumulative, iterative enhancement of the breadth and depth of the social dimension; or not.

For industrial relations analysis there is however a major question which is rarely confronted explicitly: can we regard supranational regulation as national industrial relations writ

large? This seems to be implied if we simply apply the Dunlop model to the European stage; and is also perhaps implicit in much usage of the notion of ‘multi-level governance’ (Eberwein et al., 2000: 203; Falkner, 1996: 204) as an analytical device. Yet how do the levels connect? ‘The emerging European-level institutions of industrial relations are not about to develop into a replica of a national industrial relations system on a larger scale’ (Streeck, 1998: 435). There is little prospect of creating direct analogues of national collective bargaining and ‘political exchange’ cross-nationally since – as has so often been argued – the EU is in key respects *not* a supranational state and the European ‘social partners’ are *not* authoritative national trade unions and employers’ organisations at a higher level.

The risk is that much energy and many resources are invested in the pursuit of elaborate form with minimal substance. This is the case with the complex ritualism of ‘social dialogue’, a time-consuming process with little resemblance to real collective bargaining. Likewise, the efforts to create regulation by EU directive (or to reach bipartite agreements under the ‘shadow of the law’) have achieved results which even enthusiasts confess are relatively limited in terms of impact in most EU countries (the UK is the perennial exception, perhaps) even if it is hoped that they may provide foundations for further progress.

A key consideration is that European integration requires new strategic invention. According to Piven and Cloward (2000: 414), economic internationalisation undermines many of the traditional strengths of labour movements; yet nevertheless ‘underlying power possibilities... persist’. However, trade unions all too often display an organisational inertia and remain locked into strategic orientations which were once effective but have lost their capacity in the face of new challenges. Thus the *potential* power resources of labour movements – the opportunity to focus on the weaknesses of transnational capital – are not reflected in their repertoire of actual strategies.

One of these weaknesses is ideological. Despite the extent to which ‘free markets’ became part of the political normality of the last two decades, the destructive impact of economic

liberalism on ordinary lives is often bitterly resented. Could European unions mobilise this discontent? This re-connects us to our earlier discussion of moral economy. An underlying flaw in the pursuit of European-level regulation by supranational equivalents of collective bargaining or legal enactment is that such processes and the resulting instruments lack the support of the more diffuse shared perspectives and normative commitments which give them much of their effectiveness at national level. The search for a European industrial relations system has in the main been an elite project, bureaucratically conducted. Without engaging with popular concerns and aspirations, the whole elaborate repertoire of Commission communications, joint opinions, drafts and redrafts of directives and the rest is little more than a side-show empty of relevance for the real world of work and employment. What is lacking is a moral economy at European level – beyond the traditional abstract commitment to a ‘social market economy’ on the part of both social and christian democrats, a commitment which was always ambiguous and has been increasingly undermined by the marketising pressures of the late twentieth century.

The goal of effective European regulation, a reconstruction of employee status at supranational level, must remain a chimera unless popular commitment can be mobilised in its support. Yet to the extent that there is a dominant ‘public opinion’ in most European countries it is suspicious of, if not downright antagonistic to, the idea of European integration. ‘Widespread citizen hostility to the process of unification is reinforced by the discourse of most political leaders presenting the European Union as the necessary adaptation to globalization, with the corollary of economic adjustment, flexibility of labor markets, and shrinkage of the welfare state’ (Castells, 1998: 326). All too often, the representatives of European labour have embraced too uncritically the process of unification as marketisation, unwittingly fuelling disenchantment with their own representative status.

This might be reversed if it were possible to formulate, and propagate, unambiguous standards of moral economy with an appeal across countries and languages which could inspire enthusiasm in place of alienation. How could a meaningful European moral economy be

constructed? Ideas, ideals and identities typically emerge through contestation and struggle; sometimes they represent accommodations between conflicting interests, but often also the points of reference whereby oppressed majorities can challenge imperious minorities. They are both the product and the foundation of civil society, which I understand as a sphere of social relations distinct from both state power and market dominance. At national level, unions in many countries have long derived their influence in large measure from their status as key actors within civil society; or more recently have recognised that they can sustain or recapture a significant role only by forging effective links with the other components of civil society. By contrast, the weakness of a European civil society is a major obstacle to the creation of a genuine European system of industrial relations.

Notionally, a European civil society already exists. The European Commission has declared its desire to foster a European ‘civil dialogue’, and provides material support for a wide variety of non-governmental organisations (NGOs) which can function as interlocutors (just as it subsidises employee representation within the longer-established routines of social dialogue). But this is window-dressing. Organisations licensed from above cannot realistically be regarded as thereby representatives of popular will. Without widespread consciousness of European citizenship it is fatuous to speak of European civil society.

Yet real intimations of a European civil society are not altogether absent. To take one obvious example, the struggle from the 1960s for women’s rights created a climate of opinion which formed the basis for the innovative decisions of the European Court of Justice and the interventionist policies of the Commission in the field of equal opportunities. Another instance is the outrage caused by Renault’s closure of its Vilvoorde plant, reinforcing demands for an effective European employment policy and creating the potential for a strengthening of the European Works Council directive. To some degree the BMW threat to close production at the British Rover factories evoked a similar response. At the time of writing, resistance to GM’s decision to close its Vauxhall plant in Luton – provoking a Europe-wide token strike of 40,000

workers – reflects a similar assertion of the moral, status rights of workers in the face of the narrow contractualism of multinational capital.

The consolidation of an emergent European civil society should be seen as an important task for trade unions and for other supporters of effective social regulation in employment. One problem is that the concept of civil society has itself been appropriated and devalued by enthusiasts of a deeply ambiguous ‘third way’, often to give a human face to neoliberal policy. As Beck has insisted (2000: 11), we might better employ the concept of a ‘society of citizens who stand up for people’s rights’ (a rough approximation of the untranslatable *zivilcouragierte Gesellschaft*). Or in Standing’s words (1999: 387), ‘a *network* of citizenship associations is needed to give voice to *all* those faced by insecurity’.

If trade unions are to reassert their relevance as representatives of labour and as actors at European level, there has to be a radical shift of emphasis which embraces such a concept. While engaged with the process of European integration, they must become far more vocal and forceful as opponents of the dehumanising advance of market forces. As against social dialogue as currently understood there needs to be an *internal* social dialogue to agree common perspectives for European labour, to construct alliances with appropriate NGOs, and to create resources, and indeed weapons, to make voice effective. The most dramatic expressions of moral economy in recent years – as in Seattle, Nice or Davos – have been primarily negative and oppositional. Ultimately the rejection of market-driven priorities can succeed only if it becomes forward- rather than backward-looking, and is framed by a positive agenda of human rights. On such a basis it might become possible to fashion processes of ‘communitarian regulation’ at supranational level, and also to stimulate the grassroots pressure which can reinforce the search for other modes of European regulation. It will be a difficult struggle, but the goal must be to construct a new embeddedness of market processes at European level and hence a new defence for the status of employees – and particularly, for those most vulnerably placed within the emerging ‘real’ labour market. Concerned academics have a duty to assist such a struggle, which should be at the heart

of a conflict of perspectives on the meaning and future of Europe.

Scholars have so far only interpreted the world of industrial relations in different ways; the point is, to re-invent it.

References

- Albert, M. (1993) *Capitalism against Capitalism*. London: Whurr.
- Beck, U. (2000) 'Mehr Zivilcourage bitte', *Die Welt* 25 May: 11.
- Blair, T. (1998) 'Foreword', *Fair Deal at Work*, pp. 3-4. London: HMSO, Cm 3968.
- Boyer, R. (1996) 'State and Market: A New Engagement for the Twenty-First Century?' in R. Boyer and D. Drache (eds), *States Against Markets: The Limits of Globalization*, London: Routledge, 84-114.
- Brown, W. and Rea, D. (1995) 'The Changing Nature of the Employment Contract', *Scottish Journal of Political Economy* 42(3): 363-77.
- Buda, D. (1998) 'On Course for European Labour Relations?' in W. Lecher and H.-W. Platzer (eds), *European Union – European Industrial Relations*, London: Routledge, 21-44.
- Castells, M. (1988) *End of Millennium*. Oxford: Blackwell.
- Commons, J. R. (1909/1968) 'American Shoemakers, 1648-1895', *Quarterly Journal of Economics* 24, reprinted in R. L. Rowan and H. R. Northrup (eds), *Readings in Labor Economics and Labor Relations*, Homewood: Irwin, 60-76.
- Commons, J. R. (1924) *Legal Foundations of Capitalism*. New York: Macmillan.
- Crouch, C. and Streeck, W., eds (1997) *Political Economy of Modern Capitalism*. London: Sage.
- Dore, R. (1986) *Flexible Rigidities*. London: Athlone.
- Durkheim, E. (1933) *The Division of Labor in Society*. New York: Macmillan.
- Eberwein, W., Tholen, J. and Schuster, J. (2000) *Die Europäisierung der Arbeitsbeziehungen als politisch-sozialer Prozeß*. Munich: Hampp.
- Erbès-Seguin, S. (1999) 'Le contrat du travail: une relation hybride' in S. Erbès-Seguin (ed.), *Le*

- contrat: Usages et abus d'une notion*, Paris: Desclée de Brouwer, 217-31.
- Esping-Andersen, G. (1990) *The Three Worlds of Welfare Capitalism*. Cambridge: Polity.
- Falkner, G. (1998) *EU Social Policy in the 1990s: Towards a Corporatist Policy Community*. London: Routledge.
- Ferner, A. (1998) 'Multinationals, "Relocation" and Employment in Europe' in J. Gual (ed.), *Job Creation: The Role of Labour Market Institutions*, Cheltenham: Edward Elgar, 165-96.
- Flanders, A. (1970) *Management and Unions*. London: Faber.
- Friot, B. (1999) 'Les enjeux actuels d'une définition contractuelle de l'emploi' in S. Erbès-Seguín (ed.), *Le contrat: Usages et abus d'une notion*, Paris: Desclée de Brouwer, 195-215.
- Goetschy, J. (1994) 'A Further Comment on Wolfgang Streeck's "European Social Policy after Maastricht"', *Economic and Industrial Democracy* 15: 477-85.
- Goetschy, J. (1999) 'The European Employment Strategy: Genesis and Development', *European Journal of Industrial Relations* 5(2): 117-37.
- Grahl, J. and Teague, P. (1994) 'Economic Citizenship in the New Europe', *Political Quarterly* 65(4): 379-96.
- Granovetter, M. (1985) 'Economic Action and Social Structure: The Problem of Embeddedness', *American Journal of Sociology* 91: 481-510.
- Gray, J. (1998) *False Dawn: The Delusions of Global Capitalism*. London: Granta.
- Hutton, W. (1995) *The State We're in*. London: Cape.
- Jacobi, O. (1996) 'European Monetary Union: A Quantum Leap', *Transfer* 2(2): 233-44.
- Jensen, C. S., Madsen, J. S. and Due, J. (1999) 'Phases and Dynamics in the Development of EU Industrial Relations', *Industrial Relations Journal* 30(2): 118-34.
- Laffan, B. (1998) 'The European Union: A Distinctive Model of Internationalization', *Journal of European Public Policy* 5(2): 235-53.
- Lecher, W. and Rüb, S. 'The Constitution of European Works Councils', *European Journal of Industrial Relations* 5(1): 7-25.

- Majone, G. 'Understanding Regulatory Growth in the European Community' in D. Hine and H. Kassim (eds), *Beyond the Market: The EU and National Social Policy*, London: Routledge, 14-35.
- Marginson, P. and Sisson, K. (1998) 'European Collective Bargaining: A Virtual Prospect?', *Journal of Common Market Studies* 36(4): 505-28.
- Martin, A. and Ross, G. (1999) 'In the Line of Fire: The Europeanization of Labor Representation' in A. Martin and G. Ross (eds), *The Brave New World of European Labor*, New York: Berghahn, 312-67.
- Mitchell, A. (1998) 'Industrial Democracy: Reconciling Theories of the Firm and State', *International Journal of Comparative Labour Law and Industrial Relations* 14(1): 3-40.
- Marginson, P. and Sisson, K. (1994) 'The Structure of Transnational Capital in Europe' in R. Hyman and A. Ferner (eds), *New Frontiers in European Industrial Relations*, Oxford: Blackwell, 15-51.
- Marsden, D. (1999) *A Theory of Employment Systems*. Oxford: Oxford UP.
- Piven, F. F. and Cloward (2000) 'Power Repertoires and Globalization', *Politics & Society* 28(3): 413-30.
- Polanyi, K. (1957) *The Great Transformation*. Boston: Beacon.
- Regini, M. (1995) *Uncertain Boundaries*. Cambridge: Cambridge UP.
- Regini, M. (2000) 'The Dilemmas of Labour Market Regulation' in G. Esping-Andersen and M. Regini (eds), *Why Deregulate Labour Markets?*, Oxford: Oxford UP, 11-29.
- Rhodes, M. (1995) 'A Regulatory Conundrum: Industrial Relations and the Social Dimension' in S. Leibfried and P. Pierson (eds), *European Social Policy: Between Fragmentation and Integration*, Washington: Brookings, 78-122.
- Ross, G. (1994) 'On Half-Full Glasses, Europe and the Left', *Economic and Industrial Democracy* 15: 486-96.
- Sayer, A. (1995) *Radical Political Economy: A Critique*. Oxford: Blackwell.

- Standing, G. (1997) 'Globalization, Labour Flexibility and Insecurity: The Era of Market Regulation', *European Journal of Industrial Relations* 3(1): 7-37.
- Standing, G. (1999) *Global Labour Flexibility: Seeking Distributive Justice*. London: Macmillan.
- Streeck, W. (1987) 'The Uncertainties of Management in the Management of Uncertainty', *Work, Employment and Society* 1(3): 281-308.
- Streeck, W. (1992a) *Social Institutions and Economic Performance*. London: Sage.
- Streeck, W. (1992b) 'National Diversity, Regime Competition and Institutional Deadlock', *Journal of Public Policy* 12(4): 301-30.
- Streeck, W. (1994) 'European Social Policy after Maastricht', *Economic and Industrial Democracy* 15: 151-77.
- Streeck, W. (1995) 'From Market Making to State Building?' in S. Leibfried and P. Pierson (eds), *European Social Policy: Between Fragmentation and Integration*, Washington: Brookings, 389-431.
- Streeck, W. (1997) 'Neither European nor Works Councils', *Economic and Industrial Democracy* 18: 325-37.
- Streeck, W. (1998) 'The Internationalization of Industrial Relations in Europe', *Politics & Society* 26(4): 429-59.
- Streeck, W. and Schmitter, P. C. (1992) 'From National Corporatism to Transnational Pluralism', *Politics & Society* 19(2): 133-64.
- Supiot, A. (1999) 'The Transformation of Work and the Future of Labour Law in Europe', *International Labour Review* 138(1): 31-46.
- Thompson, E. P. (1971) 'The Moral Economy of the English Crowd in the Eighteenth Century', *Past and Present* 50: 76-136.
- Visser, J. (1998) 'Learning to Play: The Europeanisation of Trade Unions', in P. Pasture and J. Verberckmoes (eds) *Working-Class Internationalism and the Appeal of National Identity*, Oxford: Berg, 231-57.