

**Roles and Rules:  
Ambiguity, Experimentation  
and New Forms of Stakeholderism in Germany<sup>1</sup>**

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Most observers of the situation in Germany today agree that the national level political system is blocked. There is a grand coalition of the major political parties which represents an inability of either party to come up with a decisive or politically palatable program to reform the central institutions of the political economy and its welfare state. Everyone agrees that the German system needs to be changed. Yet no one seems to be able to provide solutions at the national level that the population finds acceptable. Perhaps the only consensus about reform that broad groupings of Germans across the political spectrum share is that they do not want to push their society in the direction of the United States. By this they mean that they do not want crucial questions in their society—such as how the labor market should work, who should get health care, who should have education, and who should live comfortably in retirement—to be adjudicated exclusively by market processes. But how else they should be adjudicated has not been settled. In these debates, negotiation among social stakeholders (social cooperation) regarding desired social outcomes is opposed to arms length, atomized market decision-making. The former is considered to be politically desirable and just, but overly rigid and increasingly unworkable. The latter is viewed as workable but unjust and undesirable. The national paralysis is indicative of the absence of any practical way to move forward in the face of what many regard as a zero sum opposition.

Paralysis at the national level does not mean that there is no change occurring in Germany, however. Far from it. At the level of firms and regions, as well as within specific functional institutional realms, such as in industrial relations, there has been very

remarkable change. Interestingly, the same opposition between stakeholder negotiation and market principles structures the way that this change has been understood. Most commentators, on both the left and the right, in the academy and out, have claimed that much of the local level change has been the result of “liberalization”; i.e., the embrace at the local level of precisely the kind of market principles that the Germans reject at the macro level (e.g., Streeck, 2005, Lane 2000, Keller, 2006). As at the macro level, the consensus is that the old institutional system of social coordination is too rigid to be able to foster competitiveness in the current competitive environment. Markets are coded, even by those who object to their social and political consequences, as the vehicles of contemporary flexibility. They make it possible for firms and social actors to rapidly and capaciously reallocate resources and even embrace new roles. Thus, efforts to achieve flexibility, define new roles and move away from the traditional rules of social cooperation governing relations within and between firms, in the labor market and among stakeholder associations in local economies are characterized as “movements toward the market”, if not the outright embrace of market mechanisms.

In this context of ascendant liberalization—the argument goes--continued processes of negotiation between traditional associational stakeholders in the economy, where they are thought to still exist, are regarded as special cases. Either they are understood as reactionary remnants (heroic holdouts) of an outdated old system, increasingly hollowed out and “eroding” from acid of market process (Hassel 1999). Or they are viewed as the expression of special conditions, having to do with technological or idiosyncratic political factors, that insulate processes of negotiation from direct contact with market

competition. On either variant of this view, continued stakeholder governance will last only as long as political will, or technological caprice allows.

The aim of this essay is to reframe the current process of adjustment in Germany in a way that rejects the above opposition between an older entrenched tradition of stakeholder cooperation and an insurgent challenge of society transforming market liberalization. In the first instance, it would be possible to make this kind of argument simply by pointing out that the current opposition between negotiation and markets in the debate is overdrawn. It has always been the case that markets have permeated German society, so it is unclear why the two forms of practice must be understood as antithetical today (see Abelshauser 2003). Although I agree with that claim, the argument I will make against the notion that there is an opposition between cooperation and liberalization is a different one. In my view, it is not at all clear that “liberalization” is actually the kind of challenge currently being posed to the Germans (or to Europeans more generally). It is true that they are being pressed to become more flexible in the way that they work and in the way that their organizations negotiate their respective fields. In that sense, the traditional forms of social cooperation in German society are “under attack” and undergoing sometimes very radical recomposition. But these pressures have induced widespread experimentation with alternative forms of governance that involve continual and collaborative recomposition of roles in and among firms and social actors, rather than any monomaniacal search to convert all social relations and social tasks to atomized market exchanges. The stakeholder cooperation vs market process framing in both public and

scientific debate has a tendency to turn the eye away from the actual experimentation in stakeholder collaboration that is going on in Germany today.

Much of the problem in the way that the current adjustment situation has been analyzed has to do with the fact that markets and social cooperation have been reified into mutually exclusive categories. At worst, this kind of mutual exclusivity leaves us with the clumsy and unrealistic alternatives of path dependent rigidity (social cooperation digging in its heels) or past-erasing transformation (atomized marketization working like acid in social life). At best, the analytic dichotomy allows for the construction of so-called “hybrid” arrangements, in which the opposing principles are combined, sometimes awkwardly, in the process of adjustment (Lane 2000, Casper 2000). In such cases, however, it is rarely clear 1.) what the mechanism for the emergence of hybridity is; that is, how, through what process, are distinct institutional principles related to one another in new ways? Nor is it clear 2.) why newly emergent practices cannot simply be understood as new, rather than as familiar principles differently juxtaposed. In other words, even the best forms of analysis deploying the rigid analytical distinction between markets and social cooperation do not allow for the possibility that actors are engaged in the creation of entirely new principles of cooperative governance and practice through the creative invention, abandonment, redefinition and recomposition of institutional rules and their own roles. In many ways the current debate has backed itself into a conceptual corner such that social cooperation can only be reformed by the market and vice versa. The idea that there could be alternative forms of social cooperation is not part of the conceptual range of possibility.

The analysis here will attempt to create a space for thinking about a range of alternative modes of governance by making actors and the dynamic interaction of roles and rules the center of analysis. Here both markets and stakeholder arrangements will be understood not as antipodal mechanisms, but rather as different groupings of rules (institutions) that specific groupings of reflexive actors create to govern particular dimensions of their social process in the economy. Such complexes of rules are highly contingent constructs and are recurrently recomposed. Actors, enacting roles that the rules are designed to govern, continually reflect upon and evaluate the adequacy of both their roles and of the governing rules as they struggle to cope with the challenges and opportunities of their situation. Old roles are modified, new roles emerge and rules that prove to be inadequate or irrelevant to the emerging situation are either changed or ignored, while those that continue to be effective continue to be embraced—though often in unexpected ways. Such differentiated processes of role and rule evaluation and adjustment involve considerable creativity on the part of actors. All solutions are effectively provisional—pragmatists describe them as experiments—and actors embrace them only when they help solve the problems that have been collectively identified (Joas 1996, Sabel 2005)

Seen in this constructed, un-reified way, markets and social cooperation are by no means always in conflict or mutually exclusive. In many cases, rules developed in one area can be embraced for ends held by actors committed to the other, and vice a versa. This is not the creation of hybrids, it is simply the adaptation of rules for practical problem solving. The difference in perspectives can perhaps be illustrated by the following example.

Many of the new experiments in coordination to be described below aim for the creation of alternative sets of governance structures in which transparency rules traditionally associated with markets—such as the formalization of monitoring procedures and of accounting functions to create greater transparency both within and across the borders of organizations—play central roles in the facilitation of new forms of stakeholder collaboration. If one views markets and social collaboration as antithetical modes of governance, then this appears to be the embrace of market mechanisms. But if one views social collaboration and market practice simply as practical (recomposeable) groupings of rules and roles, then the example illustrates the selective deconstruction of market principles in the interest of constructing an alternative (more effective) set of rules for the governance of collaborative practices (Günther & Gonschorek 2006, Sabel 2005, Herrigel 2006).

The range of this sort of experimentation with rules and roles in Germany today is extremely broad—markets, organizations, stakeholders and forms of social and political negotiation are all in play, and often in quite unfamiliar and counter-intuitive ways. To the extent that it still matters, the old institutional order in the German political economy increasingly is being filled with distinctly untraditional forms of practice. But it is also true that in many cases, the old institutions are a side show to new forms of practice, many of which draw selectively on the old institutional mechanisms, but deploy them in new ways, quite independently of their place in the old system, according to different rules. We will see below that in this context, stakeholderism is neither paralyzed nor outmoded in Germany. It is being redefined.

The argument begins, in section one, with a description of the way in which the relational dynamics in industrial markets have been changing. Those changes have created great ambiguity in the roles that actors play in production and in the geographic scale at which production takes place. This, in turn, has given rise to new pressures, problems and governance dilemmas that the existing array of institutions within the German business system were not designed to address. Section two will then show how these pressures are giving rise to new kinds of actors that are redefining traditional roles in the political economy and engaging in institutional innovation at a very local level. A core claim in this section is that these innovative, emergent actors are engaged in open experiments with the institutional rules that are supposed to govern their relations. Some of these experiments involve creative interpretation of the existing rules, others involve the assertion of exceptions, while in other cases there is mutual agreement among the parties to place the existing rules aside. The German industrial relations system will be used as the primary empirical illustration of these dynamics. The argument concludes with reflections on the possible macro-level implications of this on-going experimentation at the local level in the economy. Some remarks will also be made in the final section on the differences between the form of analysis deployed here and existing frameworks of institutional analysis.

## **I: Current Adjustment Pressures in the Manufacturing Economy**



The central dynamic in many industrial markets today, particularly in those traditional manufacturing industries that form the core German economy (automobiles, machinery, electrical equipment etc) is one of vertical disintegration. Manufacturing firms are to a large extent breaking their production operations up, focusing their own activities on the most profitable and most innovative dimensions of their business and shifting both development and production of other operations on to suppliers. This process has had two seemingly contradictory, but nonetheless intense and unremitting drivers: 1.) a continuous pressure to innovate, improve technology and production organization, bring out new products etc ; and 2.) an equally as unrelenting pressure to reduce production costs.

The former pressure stems from intense global competition among producers and is driven by the shortening of product life cycles and the desire of competing firms to identify, exploit and redefine dynamic and plastic consumer tastes. The pressure for cost reduction, in part, grows out of the intensifying pressure for innovation, as the development of new technology is expensive and places strains on firm resources. In order to learn about and develop new technologies and applications for their products, firms must divert resources from routine production activities into research and development areas. Internal departments are benchmarked against outside specialists, and if they cannot produce with the same quality and at as low a cost, then the operations are shifted outside and the savings directed toward innovation. Suppliers are also benchmarked against other suppliers, always on the basis of quality and cost, and the

winner is always the one with the net lowest costs. In this way, pressures for innovation and cost reduction structure the entire, increasingly disintegrated, supply chain.

This dynamic of vertical disintegration has affected the character of relations within and between firms in the supply chain in two very distinctive ways. The first is the emergence of ineradicable role ambiguity. Because the value chain has been disintegrated, customer and supplier relations dominate contemporary manufacturing. But the character of relations between customers and suppliers, in particular the specific role that the customer and supplier will play in their relation, is always *ex ante* highly uncertain. This is true for three reasons.

First, larger customers look to suppliers for innovation in areas that the customer firm no longer specializes in and suppliers look to customers as sophisticated users of their technologies who will push them, even help them, to devise new applications for their products. In other words, both customer and supplier look to one another for innovation and for learning. Second, because both customer and supplier are under constant pressure to innovate, both have an incentive to limit the extent to which bilateral relations with particular customers/suppliers become exclusive. Exclusivity can lead to myopia and blindness to possibilities. As a result, even firms benefiting from intimate collaborative, mutual learning exchanges, seek to limit those relations in order to be able to scan their relevant technological landscapes for customers or suppliers with whom they can learn something new. In this way, one can think of collaboration as having a cost that both suppliers and customers need to minimize. Third, both the customer and

supplier are under extreme cost reduction pressures, so the customer would like to pay as little for the suppliers product as possible, while the supplier would like to earn as much from the relationship as possible. Both will seek to exploit weaknesses in the other's position in the interest of cost reduction and margin protection. (Herrigel & Wittke 2005, Herrigel 2006, Whitford & Zeitlin 2004, Sabel 2005)

These three logics enter into the constitution of every relationship in the supply chain. As a result, up front, it is never clear to either party precisely what kind of relationship the two are entering into. Neither knows for certain the role they will ultimately play: Will it be a collaborative relationship in which mutual learning is paramount? Will it be an arms length relationship in which cost reduction and margin protection is the primary game? There are many possibilities for how relationships can be established. And then, significantly, once established at a single point in time, those relations can then change over time. Past roles are not determining factors for the role one will play in the future. Often a supplier will enjoy and benefit from a collaborative tie with a customer and yet decide to devote its resources to establishing a substantial collaborative relation with one of the customer's competitors because that competitor has know how that the supplier would like to have access to. Rather than simply abandon the old customer, the supplier can decide, for the sake of the relationship, to provide the customer with some production capacity at cost so that the customer can achieve desired cost reduction targets. The supplier may do so at a loss, but it gains good will in future bidding rounds with the customer. In yet another case, a customer and supplier may enter into what both hope

will be a collaborative relation, but then after a short time it becomes clear that either the supplier or the customer will not be able to deliver their end of the bargain within specified cost parameters. When the supplier is the disappointer in such cases, the customer will take jointly developed plans and seek bids on them from competitors of the supplier that developed them. Indeed, the supplier could even find itself bidding on its own designs! Customers and supplier at any point can be collaborators in design and production, arms length producers, developers without production, producers without design—and all and none of the above. Elsewhere we have described these dynamics as Sustained Contingent Collaboration (Herrigel & Wittke 2005, Wittke 2007)

The point is that relations are extremely dynamic and heterogeneous in contemporary manufacturing, both within firms and between firms. The role of customers and suppliers in any given bidding round are fundamentally ambiguous, even to themselves. The division of roles only becomes clear through repeated interaction and reciprocal efforts to define the possibilities and limits of a jointly defined project. And even then, it is merely provisional, stable and clear only until the end of the project and the beginning of another bargaining round.

This role ambiguity is accompanied by, bound up with, and exacerbated by a growing ambiguity regarding the territorial scale of production. Under pressure to innovate and reduce costs, customers and suppliers seek to achieve their goals wherever they can: components can be drawn from far away or nearby, collaborators identified in foreign locales or in neighboring cities. As in the distribution of roles, this ambiguity is only

resolved in the process of interaction. Customers and suppliers both have an incentive to expand the terrain in which they can both learn about new technologies and produce them profitably. Crucially, this does not involve abandoning the most local and proximate locations for production. Rather it involves supplementing the capabilities of local agglomerations with those of other places. (Herrigel 2006)

Role and scalar ambiguity are currently constitutive of industrial practice across the world's industrial economies. Continuous pressure for innovation and cost reduction are the drivers of this ambiguity and a vertically disintegrated supply and value chain with highly volatile and heterogeneous relations are its manifestation. The emergence of these kinds of relations in industry has generated tremendous pressure for change on all the institutions that constitute national business systems—in industrial relations, vocational training, finance, welfare provision, regional industrial policy. By and large, most of those institutions, rules for governing relations in industry, were created under conditions that differ significantly from the ones currently shaping play. Above all, nearly all of those institutions presuppose the existence of relatively unambiguous, not to say fixed, roles among industrial players. They also take for granted that the territorial scale of industrial practice will be relatively clear and unitary and in particular proximate to specific geographical agglomerations of manufacturers. As a result, they tend to be oriented toward the protection of rights and positions, rather than to their continual redefinition and recomposition (Kristensen & Rocha 2006). At best, these old institutional arrangements can only partially and often only accidentally address the kinds of problems that actors in industries characterized by sustained contingent collaboration

encounter and generate. At worst, those institutions constitute barriers to solutions to those problems

Unsurprisingly, actors on the ground have been energetically engaged in efforts to provide solutions for—develop rules for behavior around—the kinds of problems contemporary industrial practice generates. As I will show below, these efforts have neither involved the wholesale abandonment of the existing cooperative institutions nor the aggressive embrace of something like unfettered market mechanisms. Rather, the current efforts to find reasonable governance structures for the problems generated by role and scalar ambiguity all involve experimentation around and with the existing systems of institutional rules governing cooperation. As the character of social cooperation on the ground changes, institutions are being recomposed and reinvented to support it. In this process, old institutional actors are adopting new roles and redefining rules at the same time that new roles and new rules are being created. This is not a process of liberalization. Indeed, far from being a victim, cast aside by the process of change, stakeholderism is quite central to it. But the kind of stakeholderism that is currently emerging is very different than the traditional understanding of corporatist governance that has long defined the German political economy.

## **II: How is this experimentation taking place?**

It is only slightly hyperbolic to claim that the main mechanism driving transformation in the institutional framework of the German political economy today is rule breaking—or at least, experimentation with and around existing rules in ways that do not always involve following the rules. Rules can be “broken” in a variety of ways—many of these ways are not in and of themselves necessarily threatening to the existing system of rules. Some may even be useful for the preservation of the existing rules—secondary or informal sectors in economies often emerge due to rigidities in core sector practices, for example. Other kinds of actions are simply exceptions to the rules, as when one has to break one rule in order to comply with another. There also can be important new action that occurs in areas where the existing set of rules simply do not apply. Finally, since rule following itself is a repetitive activity that involves constant interpretation and reinterpretation as one attempts to apply the general prescriptions of a rule to the peculiar and particular facts of a case, actors constantly change rules (or redefine them) even as they follow them.<sup>2</sup>

All of these forms of normal “rule breaking” can be found in abundance in Germany today. But in crucial cases that I will outline, it is also true that rules are simply not being applied in areas in which they are intended to govern or they are self consciously being applied in ways that undermine the end to which they were originally devised. Call this rule breaking by mutual consent or coordination to act in ways that are not proscribed or intended by the existing rules. But the crucial occasion for all of the examples of experimentation around rules that I will describe is that the traditional rules, and the

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<sup>2</sup> In thinking about the plasticity of rules, I have found the following to be very helpful Edgerton, Ortmann, Miller, Lewis, Mayo, Melberg, Taylor, Bourdieu

proscribed roles for actors within those rules, no longer address the dynamics and governance problems that actors in industry confront.

Below I will provide examples of experimentation with rules and roles in the areas of industrial relations. I focus only on industrial relations here for two reasons. First, the examples of experimentation with rules and roles are especially clear in this area.

Moreover, the industrial relations system in Germany has received a great deal of international attention and its changes have elicited much debate about the compatibility of “coordinated capitalism” in the labor market with increasing liberalization. My view that change in Germany is not rightly understood as a process of liberalization, but rather as one in which principles of markets and social cooperation are just so many rules for the governance of roles and in particular in which stakeholder coordination is being redefined is illustrated very well by the industrial relations case. Second, I want to make some theoretical points about what the incidence of widespread rule and role experimentation tells us about the way we currently think about institutional transformation. It is not necessary to exhaustively outline how experimentation is occurring in all realms within Germany to be able to make those points.

### **Experimentation in Industrial Relations:**

There is much hand-wringing in the literature on the current state of the German system of industrial relations.<sup>3</sup> Most analyses, even when there are disagreements on the long

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<sup>3</sup> for a good summary of the debate, see Grahl & Teague 2004



term implications, agree that the traditional dual system of industrial relations, in which trade unions negotiate industry wide collective agreements with organized employers that are then subsequently implemented within individual firms through negotiation between works councils and plant management, has been destabilized. Most importantly, the crucial informal solidarity linking industrial unions with plant level works councils has been broken<sup>4</sup>. As firms and plants seek to cope with the constant turbulence generated by the ambiguity of roles in the value chain, they seek greater local flexibility and chafe at the restrictions placed on their ability to organize work time and wage payment placed on them by industry wide collective agreements. Alliances for adjustment and employment between plant management and works councils have proliferated that systematically implement arrangements locally that depart from the industry wide benchmarks established by the unions and organized employers (Rehder 2003, Seifert & Massa-Wirth, 2005, Williams and Geppert 2006). This kind of *Verbetrieblichung* (segmentation/atomization) in the industrial relations system has been further exacerbated by the proliferation of so-called variable pay regimes in which workers are paid individually for their performance rather than according to more general hourly metrics calculated on the basis of fixed positions in the division of labor (Kurdelbusch). Finally, and most distressingly, there has been a growing exodus of employers out of employers associations and hence a growing population of firms and workers that do not directly participate in the construction of industry wide wage agreements at all—although they often remain oriented toward broad industry agreements (Artus 2006b). Small and

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<sup>4</sup> See Thelen (1991) for a lucid description of the way in which the informal tie between plant based works councils and union based wage bargaining used to work. Artus (2001) is an excellent discussion of the breakdown of this tie in the 1990s

medium sized supplier firms, as well as many firms of all types in eastern Germany and also many so-called “new economy” firms in emergent high technology sectors find participation in the traditional industrial relations system to be disadvantageous, overly costly and in many cases irrelevant to the pressures they face in their competitive markets (Artus 2001).

It is interesting to note that the literature describing these developments has two clear preoccupations. First, most analyses are primarily concerned with whether or not the above developments constitute “liberalization”. Evidence is mixed for arguments both for and against. For example, while the segmentation and atomization of bargaining has been interpreted as a kind of liberalization of the system, the segmenting and atomizing has been negotiated out by unions and employers associations (largely through the innovation of “opening clauses” in industry wide contracts that allow for local level deviations, so long as they are necessary for the survival of the firm). Moreover, the individual bargaining units that engage in deviations are themselves governed very intensely by stakeholder principles and the local deviations are all negotiated out between management and works councils. The force and authority of industry wide agreements have undoubtedly been weakened, but if that is “liberalization”, it is still highly mediated by social cooperation. Second, it is interesting to note that the literature focuses on forms of institutional change that do not involve either rule breaking or even experimentation. Instead, the focus is on forms of practice that result from very explicit decisions on the part of negotiating parties to create new rules that allow for new forms of practice within

the framework of the old system. One of the strongest overviews of these sets of changes describes the current situation as “change within continuity”. (Streeck & Rehder 2003)

While there is much value in this framing of the situation, in my view its weakness is that the preoccupation with the spectre of liberalization turns the eye away from widespread experimentation within the industrial relations system with the character of social cooperation and stakeholderism itself. Moreover, attention to developments that result from formal and explicit rule changes results in the neglect of widespread experimentation with rules and roles. In this section, I will show that this is particularly true of developments on the firm and inter-firm side of the dual system, though I will also present some interesting experiments on the union/employer association side of the now destabilized system. In my view, the break down of the informal tie between associational collective bargainers and firm based stakeholders has given rise to very uneven processes of role and rule experimentation in the German industrial relations system. The associations appear to be more conservative than actors within the firms. In this section, I will describe a range of experiments with roles and rules currently being undertaken within and between German firms that recast the nature of stakeholder governance. In the subsequent section, I will speculate on potential consequences of these developments for the system of industrial relations as a whole.

There are several examples of experimentation with rules and roles involving Volkswagen, the VW works council and the IG Metall.<sup>5</sup> The first shows actors creatively adapting rules to be able to engage in roles that are explicitly prevented by other rules. In collaboration with the City of Wolfsburg, and with the consent of IG Metall, Volkswagen has arranged for the construction of a research and development facility that allows the company to do something that German law technically prevents: i.e., to incorporate its suppliers into its development and production processes in a way that facilitates the iterated and role defining process of design refinement and production organization, known in the industry as “simultaneous engineering”. In German law, it is illegal to have suppliers working on a customer’s product in plants or facilities that are owned by a customer. This is a law that was designed to prevent companies from hiring workers on short term contracts under different terms than those specified in the local collective bargaining agreement covering the rest of the workforce at the company (*Arbeitnehmerübertragungsgesetz*). The existence of this law, a big victory for the union movement and the social democratic party back in the day, has been a major obstacle for German firms in their efforts generally to adopt the collaborative and decentralized principles in the Japanese or Toyota production system, including simultaneous engineering, but also just-in-time production. It is a barrier to the integration of suppliers as stakeholders in production.

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<sup>5</sup> For the most part, the following examples all stem from interviews in firms and with Unions that Volker Wittke and I conducted between 2001 and 2006. Where appropriate, additional illustrative references will be provided

To get around the fact that it was illegal for VW to engage in simultaneous engineering on its own premises, the company persuaded the city government of Wolfsburg, the town in which VW's headquarters and major assembly plant is located, to agree to form a joint stock company, Wolfsburg AG.<sup>6</sup> The city and company shared ownership in the company equally. This independent company was then made the legal owner of production and design facilities in which VW (and its suppliers) then proceeded to, as legal tenants, engage in simultaneous engineering. Here the market is being used to facilitate collaboration and rules are being used to conflate rules as actors redefine their roles in production. The next step (not yet taken) is to allow VW employees and supplier employees to jointly assemble cars on Wolfsburg AG owned assembly lines. As auto suppliers come from a variety of industries, governed by a variety of collective agreements with different unions (and in some cases by no collective agreement) this could potentially create the possibility for one assembly line in one plant to be governed by several collective agreements—a very un-German prospect. Yet it is one that creative actors in the supply chain are pursuing in order to be able to construct organizational practices that allow them to cope with the dual pressures of innovation and cost reduction.

Another VW example is a case where the players involved (VW, the Employers Association in Lower Saxony, the IG Metall and the VW All Corporate Works Council), with the consent of the regional government, have agreed to place all the existing rules of collective bargaining aside, and construct an entirely new VW car model in a separate

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<sup>6</sup> For a description of Wolfsburg AG, see: [http://www.wolfsburg-ag.com/sixcms/detail.php?template=wob\\_master&lang=de&sv\[id\]=25584&nav1=25585](http://www.wolfsburg-ag.com/sixcms/detail.php?template=wob_master&lang=de&sv[id]=25584&nav1=25585)

VW owned facility next to the main assembly complex in Wolfsburg. Known as the Auto 5000 experiment, the project builds a new mini van model using a workforce composed entirely of formerly unemployed workers in lower Saxony. The new workers are paid wages set at the regionally bargained minimum rate, rather than the much higher rate that the traditional “Haus” collective agreement between IG Metall and VW traditionally establishes. In addition, VW and IG Metall agreed to experiment with new forms of work organization, in particular multi-functional team organization in which teams were responsible for their own costs and in which workers were rewarded for both product improvement and cost reduction suggestions. The latter were practices that VW had awkwardly and haltingly introduced other German factories—though they were more common in VW facilities outside of Germany. The rationale for this mutually agreed project of rule breaking is that the existing system of rules, and the roles in production that they organize, were both too expensive and too rigid to allow for the continuous redefinition of roles that the twin pressures constant innovation and systematic cost reduction encourage. In order to be able to achieve both goals simultaneously, the argument goes, one needs to have the alternative, cross functional and self-optimizing structures that the Auto 5000 project experiments with (Schumann, et al, 2006).

More broadly in the German manufacturing economy, works councils constitute a broad area of experimentation with both roles and rules. In particular, there are countless efforts to transform them from specialists for work place scheduling, training, job retention and the processing of grievances, to “co-managing” units participating with other functional departments within the firm in interrelated discussions on product

design, process optimization and cost in the plant. This represents an expansion/redefinition of the role given to works councils in the Works Constitution Act. In the new role, works councils continue to be responsible for the activities that are defined for them in the Works Constitution Act. But now in addition, the works council engages as a worker representative in whole firm deliberations about cost reduction and innovation. By drawing on their presence in all workshops and departments in a plant, works councils have the unique capacity to accumulate information (if they choose to collect it) about work flow, inventory, work in process, the efficiency of work organization and other dimensions of the production process. Such information, particularly as it cuts across the entire plant, is indispensable for the achievement of cost reduction—as well as for the identification of possibilities for both technical design improvements and organizational innovation. Such activities can result in the re-allocation of jobs and assignments as well as the elimination of jobs. But it can also ensure that more traditional management departments also engaged in the identification of cost reduction possibilities expand their attention beyond making savings on labor costs alone. (Klitzke et al 2000, Minssen & Riese 2006)

It is important to emphasize that such experiments in co-management do not simply or even necessarily amount to the self-rationalization of labor<sup>7</sup>. In many cases, the expanding role of the works council involves systematic expansion of its technical and design capabilities—hiring additional staff with engineering know how, upgrading the skills of existing works councilors etc. The reason for this has to do with the linkage

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<sup>7</sup> For that argument, and the legitimation problems are thought to emerge from that role, see Rehder 2006

between innovation pressure and cost reduction. On the one hand, in order to devote resources to innovation, production processes and work flows constantly need to be rationalized so that costs are minimized. On the other hand, the optimization of production and work flow very often can be achieved through innovation in product design. Because progress on both ends is always desirable and often inter-related, it makes little sense for participants in the process to be specialized in only one aspect. At one Wuppertal based bearing manufacturing facility, for example, this has prompted the works council to draw additional technically trained employees into its staff. The works council works actively to develop innovative product design ideas that can be achieved within desirable cost parameters (interview).

Co-management, at least in the form described, represents an embrace by the works council of a qualitatively different stakeholder role in the firm. It is crucial to see that its efforts to embrace this role are provoked by the pervasive and constant role ambiguity in production that the firm's efforts to cope with the twin pressures of constant innovation and constant cost reduction generate. By simply acting within the confines of its traditional role, works councilors recognize that they forfeit a genuine opportunity to have stakeholder input in the continuous process of recomposition in contemporary production. They need to be involved in the process of recomposition in order to be able to influence it, and in order to be able to do that, they need to expand their capacities and collect and share more information about the production process with other "stakeholders" within the firm. Traditionally, works councils understood stakeholder representation in a narrowly distributive sense (how to maximize employee security and



wages relative to the interests of management and ownership). This understanding presupposed a static divide between management and employees and clear and stable roles for each within the production process. At bottom, it provided the works councils with a defensive and rights defending role in the firm (cf.: Kristensen & Rocha 2006). The new works council role, at least in the best and most successful cases, recasts stakeholderism in a way that seeks to maximize the contribution that employees make to the firm's capacity to successfully innovate and reduce costs. It presupposes—indeed it helps to create—a fluid and continuously self recomposing distribution of roles within production. In this sense it is pro-active and rights creating. What this new works council role shares with the old role, interestingly, is the sense that stakeholders have power within the organization. That power is enacted differently—arguably with a more extensive impact on the ongoing organization of design and manufacturing with the firm – but the insistence on mutual recognition among stake-holding-parties is the same.

Crucially, works councils, and firms with works councils, are not the only actors in Germany currently experimenting with ways in which traditional modes of cooperative stakeholderism can be redefined. There are many examples of firms that are legally entitled to form works councils, but yet exercise their right not to adopt one. They exercise a rule that allows them to leave the rules in abeyance. And the range of outcomes in these areas is very interesting. It is not all simple management domination (though there is some of that)<sup>8</sup>. There are many examples of worker-management coordination on matters relevant to the competitiveness of the firm, in particular

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<sup>8</sup> For a useful typology of governance types in firms without works councils, see Böhm & Lücking 2006

regarding reconciling the twin pressures of constant innovation and constant cost reduction. In these cases, employees view the workplace representation organizations made available to them by law to be inadequate to the collective tasks of innovation and cost reduction that they are confronted with. In the previous example, already existing works councils entered upon new terrain and redefined their role in order to be able to participate in cross functional plant wide organizations designed to address issues of innovation and cost reduction. In these latter instances, participatory cross functional and cross plant organizations are created that facilitate simultaneous and constant monitoring of costs and search for possible innovative improvements in the technology and production process. In such cases, employees do not bother to set up the traditional, and to them apparently unnecessary (irrelevant?) works council structures. They are relevantly involved in the governance of the firm in an alternative way.

Indeed, in many *Betriebe ohne Betriebsräte* (Artus et al 2006) in what are provocatively called the “Co-determination Free Zones” of the economy, the ability of employees to participate in in-plant monitoring organizations at various levels that involve multiple departments is at least as great as it is in codetermined plants with formal works councils. In the codetermined arenas, works councils have extra burdens that codetermination free plants do not have: Works councils must struggle to redefine their roles and gain management and cross departmental acknowledgement and participation in the monitoring of cost reduction possibilities, where as such structures in the codetermination free plants are created for that purpose. It's the difference between

having an actor with a traditional role acquire new roles versus the creation of new actors with new roles.

Critics point to the fact that, unlike the formal works councils, the new codetermination free organizations are not explicitly devoted to work place democracy and the representation of worker interests against those of owners (eg Böhm & Lücking 2006, Keller 2006). The new representation structures do not have the same continuity that works councils have, in that they tend to be project oriented. The structures of representation and the actors involved in self-representation change and recombine with the change and recombination of the roles of the firm. The divide between workers and owners is obscured in the new structures, as no side of the ledger reliably contributes more to cost reduction or innovation than the other. Indeed, both are becoming aware of their increasing mutual dependence. Critics worry that continuous recombination of participatory arrangements could produce atomization, making individuals vulnerable while at the same time reducing solidarity among stakeholders. But there is just as much reason to believe that the more recombination is successful, the more it will create an organization wide feeling of mutual dependence and hence of an intensified sense of the legitimacy of stakeholder entitlement.

This is not to say that there are no difficulties in the new style organizations. Self exploitation (working long hours, not taking vacations etc) is a dimension of such team organizations. The possibility exists that people get caught up in the challenge of their collective work projects and extend themselves in illegal and unhealthy ways; worse, co-

workers can be intimidated into not taking what is their due because of fear of group reprisal. There are also questions, especially in small family or single owner entrepreneurial enterprises of arbitrary authority in the last instance by owners. In such cases, collaboration and recomposition occurs at the discretion of the owner and is limited by her authority. These are very difficult questions and there are many examples of good and bad process to deal with them. But the key point is that such questions are just as relevant to works councilors engaging in a new co-management role as it is for those actors simply engaging in the new role. Works councils, in their new role, can enthusiastically participate in a culture of self-exploitation, and they can also decide not to invoke their right to challenge entrepreneurial authority in an area that has not traditionally been considered to be within their baliwick. These are governance and accountability questions concerning a role that is outside the current system of workplace governance. Works councils find themselves upon uncharted terrain in the same way that codetermination free self-governing project teams do.<sup>9</sup>

In any case, the nostalgic political yearnings of critics for a world of clear boundaries and relatively fixed roles among stakeholders seems to have little currency among participants in the new style arrangements in firms that for one reason or another have no

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<sup>9</sup> Interestingly, the Dresden group's survey of the degree to which small and medium sized firms have adopted "value accounting" techniques—which facilitate intra-firm information exchange among collaborating stakeholders-- shows that the (nearly pervasive adoption) is not regarded by the adopting owners and top managers to be in tension with their "social" commitments to stakeholders within the firm. The majority of adopters have retained the strong social commitments that they held prior to the adoption. (Günther and Gonschorek, 2006)

existing tradition of works council representation. Instead of choosing to adopt an institution, only then to have to redefine what it does in a way that is consistent with contemporary demands, workers in firms without works councils seem to be deciding simply to participate in the construction of participatory arrangements that reflect their own, constantly changing and self – recomposing work experience. What ever the reason, the facts are that the majority of firms in the eastern part of Germany, increasing numbers of suppliers in manufacturing supply chains, as well as most new start-ups in newer areas of the industrial economy, as in software, biotech and other “new economy” sectors have decided to exercise their legal right NOT to form a works council. Numbers without works councils are significantly greater in those in areas, sectors and firms where the tradition of codetermination is weak or has been dislodged (Ellguth 2006).

Another kind of remarkable role transformation—and unlike all the previous examples, a case of rule and role experimentation on the extra-firm, union/employer association side of the German dual system-- is taking place in Wuppertal. There the local IG Metall office is redefining its role to act as a kind of regional restructuring agency. In this case, as in the case of co-managing works councils, the union adds a new role to its traditional role within the rules of the existing system of industrial relations. It bargains with the local employers association and it monitors firms to ensure that they are abiding by the terms of existing collective agreements. Yet, in addition, the union embraces a new role. It is being called into firms, often by the management of the firm itself, to help with internal restructuring and with the reformulation of product and market strategies. There are no rules that govern the latter form of activity. But increasingly, such activities

dominate the activities of the Wuppertal office —so much so that the office complains that it would actually be advantageous for the union if the employers association became involved in the restructuring activities—a partner in crime, so to speak. (interview)

To be clear, Wuppertal is not actually a case of rule breaking. There are no rules that apply to the activities of trade unions as restructuring consultants. But in a concrete sense, the fact that it has adopted a role as restructuring consultant has given it the legitimacy to press works councils to embrace the new roles (co-management) described above. Not only that, the Union teaches works councils how to participate in the construction of new forms of work organization that enhance the firm's capacity to engage in continuous cost reduction and innovation scanning.<sup>10</sup> Successful cases, such as the Wuppertal bearing manufacturer mentioned above, help to draw other works councils into the embrace of new roles and rules that they previously had not been willing or trusting enough to consider. At the same time, the union can push employers to accept the new role for works councils and in general to turn their eyes in the direction of organizational change that aims at whole organizational analyses of cost reduction, rather than simply focusing on the contribution of labor to costs. In this sense, the embrace of a new role for the trade union has induced players within firms to give up their attachments to the formal and informal rules and practices that had traditionally governed production and engage in practices that constitute new roles for both stakeholders.

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<sup>10</sup> monitoring work in progress, reduction of inventory, cellular organization, cross functional exchanges—etc

### **III: What to make of these examples: The recomposition of stakeholderism in Germany?**

These are all experiments around rules and roles. They sometimes involve rule breaking, other times they are simply examples of cases in which the rules do not apply (and where no one suggests that they should). In other cases, they are expressions of very creative use of existing rules. In many cases, actions seem to be motivated or bound up with the existence of role ambiguity and they involve the creation of new roles. Finally, all of the above industrial relations cases are examples of local experiments that allow employees and managers in firms to cope with the twin pressures of innovation and cost reduction. None are “macro” experiments. Indeed, for the most part they are taking place underneath national level institutions that are changing much less radically, if at all.

The examples I have presented are also selective in that they address the central dilemma in industry today: How to cope with the twin pressures of innovation and cost reduction under conditions of continuously recurring role ambiguity. To be sure, there are other kinds of experiments in the contemporary German system of industrial relations. For example, there are efforts on the part of management to eliminate employee participation entirely and re-impose a kind of Taylorist control over the workplace. Here the idea is to achieve constant cost reduction through the radical separation of employees from the innovation process within the firm (Springer 1999). There are also (still) examples of the old system in place, where skilled labor, traditional works councils and management, all with very clear roles, informally collaborate in ways that seek to improve the quality of

the firm's product and achieve a position in the market that is insulated from cost competition. The problem with both of these kinds of contemporary practice, however, is that, in contrast to the examples above, they focus only on one of the twin pressures facing firms, either cost reduction or innovation, and do not possess the capacity to continuously achieve both simultaneously. It may be that such alternative practices will be able to reproduce themselves in the current environment. Yet by seeking to keep the twin pressures of innovation and cost reduction separate from one another, they impose limits on the range of possibilities available to solve both. This is not true of the examples presented.

It is unclear what will happen with any of these examples of experimentation. In particular, there is no obvious link between the firm and inter-firm based experiments in stakeholder governance and the union and associational side of the dual industrial relations system. As such, the implications of the redefinition of stakeholderism throughout the German economy for the industrial relations systems as a whole are unclear. The examples of rule and role experimentation that I have highlighted, however, show very clearly that the recomposition of relations and governance structures in German manufacturing is by no means reducible to a simple process of marketization or liberalization. Social cooperation among stakeholders continues to be a central dimension of industrial practice, though in increasingly different and new forms. All caveats regarding the lack of obvious linkages between these local level changes and macro transformation acknowledged, the examples provided suggest some intriguing possibilities for further, even macro level, change. The most dramatic possibilities stem



from the fact that the process of experimental change by breaking or ignoring rules—without formally seeking to change them—is slowly both creating new social actors in the economy and transforming the notion of what a stakeholder is and of what it means to have stakeholder governance.

The examples above show that new actors are emerging as substitutes for, competitors of or simply as additions to the traditional role players in the German economy. Works councils engaging systematically in collaborative cost reduction and rationalization or local unions that restructure local firms are incidences of traditional kinds of actors embracing wholly new roles. Their actions do not so much break the existing rules as they ignore them in an effort to solve pressing problems in ways that are consistent with larger normative ends that define the actors. In both cases, the end in view for the innovative actors is to keep production in the location, and ultimately, thereby, to save jobs. The means by which the new stakeholder arrangements seek to achieve their ends are in tension with existing rules and also role definitions, but none the less they are consistent with some (higher order) understanding of what the ends of union and works councils should be. By retaining and invoking principles of stakeholder legitimacy in governance, but in new roles, these experiments are slowly redefining the stakes that employees hold in firms (and communities). And they are creating new forms of stakeholder participation in firm and community governance. The new forms are much more collaborative and transgress old adversarial divides between labor and capital and unions and employer associations. Rather than attempting to demarcate a realm of distinct employee rights, for example, these organizations in their new roles attempt to

empower those they represent by collaborating with other stakeholders to make the firm (or community) more successful. The irony in this is that in committing themselves to cooperative stakeholderism, the groups facilitate the continuous recomposition of roles and relations in the production process that results in the continual redefinition and realignment of stakes in the enterprise. Who the stakeholders are, in other words, is continuously redefined as relations within and between firms are recomposed over time.

The cases of new forms of participation in codetermination free zones represent a very different way to arrive at a similar end. Here old actors are not seeking to define new roles for themselves. Instead, new stakeholder positions and stakeholder conceptions are emerging without (and sometimes against) the old institutions. Rather than a labor/capital divide, the new participatory arrangements are (in the best cases) generating an underlying culture of mutual dependence. In these new arrangements, stakeholderism, in an alternative form, is indispensable for the ability of the firm to be competitive. The more successful the arrangements are at facilitating productive recombination, the more indispensable they become. Moreover, since the constitution of cross functional projects often involves the participation of actors from both customer and supplier firms, new style principles of stakeholderism are diffusing along the supply chain and in many cases actually govern the supply chain.

The interesting thing about these two distinct processes of change is that they converge. The old institutions redefining their roles (works councils and local unions) increasingly act in ways that are similar to new arrangements that have sometimes constituted

themselves in explicit opposition to what they took to be old institutional practice. Irony aside, the convergence of different institutional actors around the principles of collaborative stakeholderism at a local level, inescapably poses the question of how such arrangements will be treated by existing national level stakeholder institutions (trade unions and employer associations), both of which until now have shown little interest in redefining their roles or their conceptions of stakeholder governance. National unions and employers associations presuppose a divide between labor and capital that presumes a continuity of roles and interest alignments within firms and within the society. In this older view, the principle of stakeholderism is tied to the reproduction of relatively stable stakeholder role positions and identities. They are focused on the protection of rights and entitlements ascribed to role positions in the society. How can such a view of stakeholderism cope with the emergent alternative in which the link between stakeholder governance and stable role positions has been broken?

This is a question that has really yet to be posed in Germany today, at least not in this form. But, without suggesting which is the more likely, plausible or desirable outcome, its easy to see that there are at least three possible ways in which the relationship between the old stakeholder institutions can relate to the newly emergent ones.

First, the national organizations can seek to defend their own conception of stakeholderism and block the diffusion of the emergent alternative by using its leverage in resources to punish local experiments and by allying with actors at local levels that are still committed to the traditional stakeholder conceptions and its institutional roles. This,

obviously, would do very little to stanch the already significant centrifugal pressures that currently plague the dual system and result in stakeholder groupings within firms pursuing their own course independent of their corporate representatives. Nor would it contribute to the re-establishment of informal cooperation between extra firm associations and intra- and inter-firm actors that made the old German industrial relations system work so well in the past. Plus, by seeking to undermine the construction of collaborative processes within firms that facilitate continuous self recomposition, a reactionary move by the associations could have disastrous consequences for the competitiveness of German industry. But by establishing allies within, for example, re-Taylorizing firms as well as the handful of insulated producers still producing in traditional ways, associational actors hostile to the new forms of stakeholderism could conceivably create a niche within the institutional landscape of the economy in which traditional class based and rigid forms of stakeholderism continued to exist.

A second possibility would be for actors committed to the emergent alternative stakeholder governance arrangements to construct an alternative national (or supra-firm and supra-regional) system that sought to end run around the existing stakeholder organizations, much in the way the new stakeholder arrangements have emerged in the codetermination free zones at the local level. Aside from invariable opposition from the existing stakeholder organizations to such efforts, it will be crucial for such an effort to reconcile the alternative stakeholder efforts that involve (redefined) works councils and local unions with those alternative efforts that exclude and are opposed to those organizations. The latter need to be disabused of their view that the traditional institutions

are irrelevant, while the former need to be disabused of the view that the codetermination free zones are operating according to different, unaccountable, principles. Far from far fetched as a scenario, one could easily imagine gradual processes of experimentation and organizational redefinition at increasingly higher levels of territorial and organizational complexity in response to emergent problems and opportunities for stakeholder actors at lower levels.

For example, a significant problem confronting both new forms of stakeholderism within the process of continuous recomposition in a firm is that all employees may not always be needed in every iteration of the recomposition of the production process. As a result, new style stakeholders are inhibited in making decisions that result in dismissal not only because they feel a commitment to providing employment; but also because they realize that though not needed in this round, the dismissed employee's expertise may be needed in a subsequent round. The inhibiting fear is that once let go, a valuable skilled employee is difficult to get back. Firms and new style stakeholder groups, therefore, have an interest in creating a system that can govern labor circulation among firms in local and regional labor markets. In Denmark, such problems have led to the transformation of the vocational training system and the way in which both local employers and trade unions are involved in it. Rather than seeking to retain employees within firms, the new extra firm stakeholder system seeks to support and train workers let go in ways that make them capable of re-entering the process of re-composition within firms with enhanced skills and capacities. By creating institutions outside the firm that supports worker mobility, the system actually enhances the capacity of stakeholding actors within firms to

creatively tackle the challenges posed by constant pressure for innovation and cost reduction (Kristensen 2006; Madsen 2005). The argument here is not to advocate the embrace of the Danish solution to this problem. The point is only to point out that there are extra-firm problems generated by the new forms of stakeholder practice within firms that could be addressed with new forms of stakeholder practice at the extra firm level. Bootstrapping experimentation on the part of new style stakeholders could yield new style arrangements at higher levels of social and economic governance.

The third possibility is for the traditional extra firm stakeholder organizations, trade unions and employers associations, to change and embrace the alternative conception of stakeholder governance that is emerging through experimentation at the local level. Here, national unions and employers associations would identify (or respond to the lower level identification of) public good problems that constituted obstacles for lower level actors in their efforts to make continuous progress with both innovation and cost reduction. Even better, the national organizations could take it as their charge to continuously monitor lower level arrangements, facilitate benchmarking processes (that are inter-regional and inter-national) and help to diffuse best practice. In this way, national level stakeholder organizations would change their role from defenders of social divisions to facilitators of lower level social and economic re-composition in the interest of greater economic success for all. The specific temporal identity of social stakeholders would in this way be short lived. Who was who and who had what stake would be continuously re-defined. But the principle of stakeholder governance would be entrenched from top to bottom in the society. Ironically, the kind of flexibility and

continuous recomposition that in the current debate is thought to be the province of liberalization and the diffusion of market processes, would in this alternative case become the systematic objective of social cooperation.

## **Some Theoretical Considerations**

There are limits to how much speculation of the above kind can achieve. Ultimately what emerges will be the outcome of highly contingent political struggles among creative and reflexive social actors under conditions that are not always of their own making. The aim of this essay has not been to predict the future, but rather to characterize the manner in which change is currently taking place. Actors on the ground are far less paralyzed by seemingly contradictory oppositions between stakeholder cooperation and liberalization than one might be led to believe if one focused only on the national level debate or on the way that local level change within industrial relations has been framed in the scientific literature. New kinds of social actors and new conceptions of stakeholding are emerging in Germany. Perhaps if actors at the national level abandoned the conceptual opposition between social cooperation and liberalization, and understood the process of change as one involving a more and less continuous process of experimentation with roles and rules, the sense of paralysis would lessen and the range of palatable possibilities for reform would seem greater.

In any case, in this final section, I would like to contextualize the analysis presented here on current processes of transformation in the German business system in the larger contemporary discussion of business system transformation in the academic literature.



The question of how business systems reform themselves has been a major focus of concern for debates in political economy, economic sociology and historical institutionalism for at least the last decade. The framing of the problem, however, has been evolving over time. Initially, there was a straightforward convergence versus path dependence framing, where the former view claimed that increasing openness to market pressures would give rise to increasingly similar institutional arrangements, while the latter indicated that the existence of tightly coupled and complementary institutional arrangements, solidified by mutually reinforcing feedback dynamics, made whole sale adoption of alternative institutional arrangements highly unlikely (Pierson 2004). This framing was then refined by the Varieties of Capitalism (VoC) literature (and its cousins) which suggested that the convergence of systems was unlikely because different systems did different things well—in particular, coordinated market economies excelled in areas where gradual and continuous innovation was advantageous, while Liberal market economies excelled at radical innovation (Hall and Soskice 2001).

Recently, further refinement has been introduced as it has become clear that the polarities of convergence versus path dependence, and gradual versus radical innovation, were not capturing the range of possible adjustment paths in advanced industrial states. Not only are institutional systems neither converging nor simply reproducing themselves in stable path dependent ways. But actors in liberal market economies can be found collaborating and gradually innovating and those in coordinated market economies struggling with brutal price competition and radical redefinitions of terrain (Herrigel & Wittke 2005). The surprising accumulation of cases of deviance within institutional systems is all the

more surprising in that there are few cases, regardless of the type of institutional system, in which significant macro- or whole-system level realignments of inter-coupled institutional systems has occurred. Actors within institutional systems today very often seem to be doing what their institutional contexts do not encourage (Jackson & Deeg).<sup>11</sup>

The institutionalist literature, which dominates discussions of business system transformation, is to date unclear on what it makes of this kind of deviant evidence. Sociological institutionalists view institutions as norms that are enacted routinely by unreflective actors (March & Olson 2005, 2004). For them, deviant examples of the kind described here are either a kind of marginal noise that can always be found within stable institutional and organizational systems, or evidence for the emergence of an alternative legitimate system (in this case, neo-liberalism) (cf., Campbell & Petersen 2001). For them, the current situation is clarified simply through the empirical measurement of the diffusion of alternative normative frameworks in the business system. Rational choice institutionalists, for their part, view institutions as systems of rules that represent equilibria among alignments of interests (Knight 1992, Greif 2006). Thus, they take the deviant data to represent the beginning of a crisis in the institutional system that is likely only to become more severe. It is a sign that working within the institutional arrangements is not in the interest of particular parties. New interest alignments are likely to jettison the old system and replace it with a new set of supporting arrangements.

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<sup>11</sup> Its important to note that in addition to rule and role re-definition at the local level, national systems are also being challenged by rule and role redefinition at the (scaler) supra-national level. This essay has neglected this dimension of the problem. I hope to take this up in a future essay.

Thus, in this view, the core project is to identify the interests of actors with regard to the existing arrangement of institutional rules.

A third perspective, associated with historical institutionalism, is inclined to view cases of deviant action as indications that the institutional architecture is undergoing piecemeal modification. Thelen and Streeck (2006), for example, have recently suggested that the logic driving such changes is that agents are creative, rules are ambiguous and change is expensive. Confronted with new, turbulent or uncertain conditions, actors must exercise creativity in applying the rules that bind them, in part because rules are general and situations are specific, but also because the interests of actors change over time and institutional rules must be bent or reinterpreted to conform to new sets of ends. Unlike the sociologists, Streeck and Thelen take deviance seriously, but unlike the rational choice institutionalists, they do not view institutional arrangements simply as a momentary equilibrium of interest alignments, to be scrapped as soon as interests gravitate into misalignment. Instead, they emphasize that despite the creativity of agents and the ambiguity (and hence plasticity of rules) change is primarily gradual because rules are backed by sanctioning authorities that punish those that act rashly. The threat of sanction generates respect for the existing rules, even among those who would change them. Institutions, at the end of the day, are systems of constraint. The result is that change is purchased with considerable institutional continuity.

In my view, none of these institutionalist frameworks can account well for the kind of experimentation and pervasive recomposition that has been described in this essay. The

sociological institutionalists' emphasis on shared norms misses the collective reflexivity that is central to the current process of experimentation. As a result they tend to view the deviant cases highlighted here as noise and remain trapped in the reified dichotomy between stakeholder cooperation and liberalization that this essay has attacked, though they understand those alternatives largely in normative terms. The examples here show that actors are continuously experimenting with rules and roles in ways that recompose practice by both rejecting and embracing old and new conceptions of legitimacy in their environment. They are not motivated so much by legitimacy as they are by a desire to solve dilemmas in their immediate practice that are not well addressed by the existing arrangement of rules.

The rational choice view of institutions as equilibria of interests recognizes that rules are there to solve problems. But their perspective can only be awkwardly applied to the current situation because the view presupposes that actors have clear ex ante identities and interests. A central dimension of the current situation, as we have seen, is that actor's roles are very ambiguous and their interests emerge only through deliberative processes of rule and role re-definition. Rules do not represent equilibria among interests, but rather provisional guidelines for action that are embraced only so long as they allow collective actors to overcome problems they have identified in their mutual interactions.

Finally, it might seem that the historical institutionalist view of institutions as systems of constraints, upheld by sanctioning capacity, holds somewhat stronger theoretical cards, as

they emphasize very centrally the importance of piecemeal change and recomposition. The difficulty in the present situation for them, however is that actors seem to be embracing roles and inventing forms of practice and governance that are not constrained by the existing system of order and sanction. Indeed, sanctioners are involved in rule breaking (think of the role of the city of Wolfsburg in VW's efforts to circumvent the *Arbeitnehmerübertragungsgesetz*, or that of the government of Lower Saxony in the Auto 5000). Ultimately, historical institutionalists are trapped in an older view of institutions as systems of rules, protected by sanction, that constrain actors from acting in certain ways and encourage them to act in others. This emphasis not only causes them to underestimate the degree to which actors can be creative in reinterpreting "constraints". It also causes them to be unreflective about the conceptual understandings of roles that underpin the institutional systems that are changing. Thus, for example, Streeck and Rehder (2003) present a trenchant analysis of the way in which the old system of industrial relations is being changed through the addition of seemingly contradictory rules at the firm level regarding retirement, local alliances and wage payment. Yet they either pass over the emergence of the new stakeholder arrangements in relative silence, or they criticize them as crass deformations of the notion of stakeholderism in a neo-liberal age (see also Streeck 2005). Their conceptual commitments to the idea that institutions should be constraining, makes it difficult for them to appreciate the possibilities of forms of practice in German firms that view all constraints as provisional, experimental and subject to recomposition and redefinition as roles are redefined.

The alternative perspective presented here departs from all the institutionalist perspectives above by making agents and institutions mutually constituting through processes of collective reflexivity. It does not view institutions as systems of rules that constrain already formed agents from acting in certain ways and encourage them to act in others (with the threat of sanction for deviance). Rather, it takes institutions to be groupings of rules that represent provisional solutions to collectively defined problems in which the roles of actors, their identity, the definition of interest and the rules that govern their behavior are constituted simultaneously and through deliberative interaction. Agency in this view is not something that is understood as the choice among a range of strategic options available to actors within specific role locations in the institutional structure. Rather it is a social process that recomposes actors and the institutional structure itself. Collective problems typically destabilize existing self-understandings and render roles, identities and interests—including those associated with the levying of sanctions—ambiguous. Solutions to collective problems reflect and often result in transformed identities, distributions of interest and governance arrangements, all of which are mutually dependent on one another. Such “solutions”, in general, but especially in the present context, are effectively provisional. Experiments in identity and governance are subject to continuous revision and adjustment as the environment in which social groupings find themselves develops and changes. In my view, such a perspective enhances our ability as social scientists to identify possibilities for political and institutional transformation in contemporary political economies.

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