

Liberalization of Labor Relations in Germany and the United States: A firm-centered comparison of
cross-national labor organizing at Amazon and Volkswagen

Christopher M. Blado

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Professor Sara Curran

Professor Sabine Lang

Professor George Lovell

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Christopher M. Blado

University of Washington

Abstract

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Christopher M. Blado

Chair of the Supervisory Committee:

Professor Sara Curran

Jackson School of International Studies

This paper examines the ongoing (as of 2015) cases of labor organizing at Amazon fulfillment centers throughout Germany and at Volkswagen's manufacturing facility in Chattanooga, Tennessee. Drawing on the literature of comparative capitalism, the paper focuses on the labor relations choices of firms in cross-national contexts. First, the paper argues that the two cases demonstrate the essential differences in German and American models of labor relations. Second, the paper argues that the cases demonstrate the processes of liberalization in labor relations that are occurring in both the US and German economies. Finally, the paper examines the implications of these cases for workforces in the US and Germany, as well as for the study of comparative labor relations.

Table of Contents

Chapter 1: Introduction	1
Methodology.....	6
Sources.....	7
The Case of Amazon in Germany.....	8
The Case of Volkswagen in the US.....	13
Parallel trends in postwar Germany and the United States	17
The US Case.....	17
The Federal Republic of Germany Case	21
Summary.....	23
Chapter 2: The US and Germany: Two Varieties of Capitalism?.....	24
Germany as a Coordinated Market Economy.....	26
The United States as a Liberal Market Economy	27
The German Model in Flux.....	29
Sometimes the boss is the best labor organizer: a firm-centric view of the cases	33
Summary	35
Chapter 3: Comparison of Legal Frameworks.....	36
Individual versus Collective Rights.....	36
Varieties of Corporate Governance	39
Summary.....	48
Chapter 4: Varieties of Liberalization in the German and US Economies.....	49
Summary.....	54
Chapter 5: Conclusion	56
Findings	56
Implications.....	59
Bibliography	66
Appendix 1: Historical economic growth in US and Germany	72
Appendix 2: Historical unionization and income distribution in US and Germany	73
Appendix 3: Transcripts of addresses to UAW 34 th Constitutional Convention by German labor leaders	74
Appendix 3, continued.....	78

List of Figures

Figure 1: German model of labor relations	4
Figure 2: Map of Amazon locations in Germany, Poland, and Czech Republic, as of May 2015	11
Figure 3: Ver.di campaign brochure	12
Figure 4: Volkswagen Community Organization Engagement policy	16
Figure 5: Corporate structure and successful forms of union resistance in the United States	18
Figure 6: Comparison of American and German labor relations systems	25
Figure 7: Works council representation in Germany	39
Figure 8: Degree of worker control.....	44
Figure 9: Range of issues over which control may be exercised	45
Figure 10: Comparison of democratization cases	45
Figure 11: Trajectories of change, selected countries, 1980s to Mid/Late 1990's	50

Chapter 1: Introduction

In June 2014, about 450 Amazon workers in Bad Hersfeld, Germany, walked off the job for two days. Organized by labor union Ver.di, the strike was the latest in a series of direct actions by Amazon's German workforce over wage issues, stemming from the online retailer's refusal to implement a standardized wage contract, a common feature of employment in Germany. In February of the same year, workers at Volkswagen's Chattanooga, Tennessee plant voted on a plan to unionize with the United Auto Workers (UAW). Unusually for an employer in the US, Volkswagen remained formally neutral on unionization, which drew the ire of the local business community as well as local politicians. The company was attempting to implement a German-style works council at the plant; therefore, its workers were required to have independent union representation to comply with American labor law.

While these cases of labor organizing have both drawn significant attention in the media, the scholarly analysis they have received has been minimal. Meanwhile, the narratives surrounding the cases that have been advanced in the media are insufficient to describe the political and economic forces affecting the preferences and choices of the actors. Generally, the media has spoken of both the Amazon and Volkswagen cases as cases of "culture clash." For example, in an analysis of the ongoing labor dispute at Amazon, the Seattle Times (Greene 2014) stated:

"This isn't merely a battle about wringing a few more dollars from Amazon's pocket. It's a cultural battle in which a union-averse American tech giant is trying to grow rapidly in a market where labor-management cooperation has long been a business hallmark."

Indeed, the article was part of a series on Amazon's international disputes entitled "Culture Clash."

Regarding the Volkswagen case, the media's framing has been similar. The Associated Press referred to Volkswagen's "labor-friendly corporate culture" (Schelzig 2015) and described the failed UAW unionization bid as "a cultural disconnect between a labor-friendly German company and anti-union sentiment in the South" (Schelzig 2014). Moreover, the UAW and Volkswagen themselves evidently place culture at the heart of the "dual model" of labor relations (works councils and labor

unions). A written agreement between the UAW and Volkswagen made public by the UAW begins thusly:

“The Dual Model is based on the Volkswagen Culture of cooperative labor relations, which is practiced by companies in the Volkswagen Group all over the world. The Dual Model is intended to adopt the practices of the Volkswagen Group culture to the fullest extent possible, in a manner consistent with all applicable US labor and employment laws.” (UAW-Volkswagen Works Council Documents, “Exhibit B”)

Additionally, in his address to the 2014 UAW convention, Volkswagen Global Works Council Secretary General Frank Patta placed emphasis on Volkswagen’s corporate culture when he described Volkswagen’s system of co-determination, saying that “[c]o-determination has a long tradition at Volkswagen. Co-determination has become an important part of Volkswagen’s corporate culture.” (Patta 2014, translated from German)

But is it merely cultural differences that explain the policy choices of these firms? Why is Amazon resisting a standardized wage contract for its employees in Germany? Why is Volkswagen implementing a German-style works council at its plant in Tennessee? Certainly, cultural differences between the US and Germany cannot be completely discounted as partial causes of these two labor disputes. Yet these cultural explanations fail in their generalizability. If cultural differences were the sole explanatory variable for these labor disputes, we should be seeing similar labor disputes on a regular basis, as German multinational firms in the US would attempt to implement their culture of collaborative works councils in American workplaces, and as American multinational firms in Germany would vigorously resist the German culture of unionism. Simply put, this sort of perpetual intercultural labor strife has not come to pass.

A more satisfying explanation must account for not merely cultural differences between the US and Germany, but differing mechanisms of action within which labor and capital interact; that is, national systems of labor relations. Further, it is important to account for both the formal and informal expectations of actors within national systems of labor relations. North’s definition of the term “institution” is useful to describe both kinds of expectations:

“Institutions are the humanly devised constraints that structure political, economic, and social interaction. They consist of both informal constraints (sanctions, taboos, customs, traditions, and codes of conduct) and formal rules (constitutions, laws, property rights).” (North 1991)

Finally, it is important to emphasize that such national labor relations institutions do not exist in separate timeless vacuums. Rather, political and economic forces, both internal and external, continue to generate change within these systems. Thus, a satisfying explanation for the Amazon and Volkswagen labor disputes must account for not merely static differences in the two national systems of labor relations, but dynamic processes of change.

To arrive at a satisfactory explanation of the labor disputes at Amazon and Volkswagen, it is important to start with an understanding of the German model of labor relations, which is significantly more complex than the American model. The German model of labor relations has drawn substantial attention from scholars for decades (Cullingford 1977). Emerging from both a tradition of strong craft unionism and radical solidarity among industrial unions (Piore 1984: 145-146), the German model of labor relations included three components distinct from other national varieties of labor relations: 1) Works councils, which allows employees to participate in workplace decision-making processes, 2) Board-level co-determination (*Mitbestimmung*) by employees, and 3) Wage-setting on regional or sectoral levels via organized pattern-bargaining between employer federations and trade union federations (Figure 1). In addition to these unique components, the German model of labor relations historically involved high levels of unionization. The result is a highly coordinated model of capitalism (and of labor relations, specifically) that is not only distinct from other national varieties, but nationally competitive in terms of production and exports (Geoghegan 2010). Moreover, it has been credited with the creation of a prosperous and secure middle-class, and the avoidance of a “race to the bottom” in terms of wages and working conditions that other capitalist economies (particularly the US) have experienced.

The German Model of Labor Relations

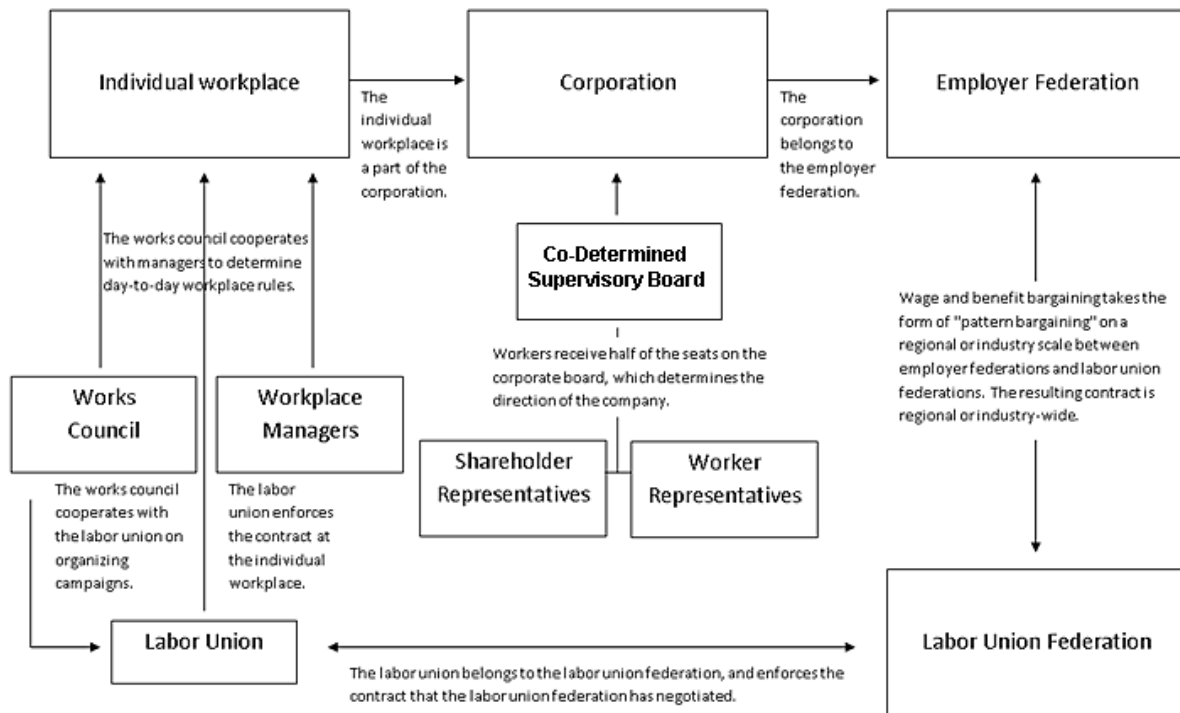


Figure 1: German Model of Labor Relations, author's own work.

However, with the acceleration of globalization in the 1990's, many scholars have assumed that the German model of capitalism (and with it, its national variety of labor relations) will eventually be supplanted by its neoliberal American counterpart. The convergence toward a global style of capitalism, led by the US, has remained a topic of debate among scholars. For example, Wolfgang Streeck predicted the end of German-style capitalism in the mid 1990's (Streeck 1997). Later, Hall and Soskice published work describing national "varieties of capitalism," and predicting "dual convergence," that is, global polarization between American-style liberal capitalism and European-style coordinated capitalism (Hall & Soskice 2001). Most recently, Kathleen Thelen published work proposing not merely national varieties of capitalism, but national varieties of liberalization. While she describes the American variety of liberalization as deregulation, Thelen refers to the German variety as "dualization" between sectors, or the creation of dual labor markets, one with traditional protections, and one without (Thelen 2014).

A point of clarification is necessary here. Berger and Piore (1980) used the related term “industrial dualism” in two ways: First, to describe “the uneven impact of these parameters [flux and uncertainty] upon various factors of production and different groups of workers,” and second, as “an outgrowth of the process of the division of labor, a process which in turn is understood in terms of a broader view of the nature of industrial development.” (15) Later, Piore elaborated on the second meaning, describing it as an “attempt to explain the persistence of small firms,” and explaining that “[the theory of industrial dualism’s] central theme was that (paradoxically) a second and contrary form of production is inherent in the logic of mass production” (Piore 1984: 27). Noyelle (1987) applied the theory of dualism specifically to the services sector, demonstrating that this sector, which was replacing the previous industrial “core,” lacked the internal labor market opportunities of traditional manufacturing. Similarly, Thelen uses the term “dualization” to contrast two co-existing systems of labor relations (traditional industrial versus non-industrial), but places the term within a broader set of possibilities for liberalizing capitalist economies. Essentially, using Thelen’s taxonomy of liberalizations, what Piore referred to as “dualism” in the American economy of the early 1980’s was merely the tip of the sword for a much more extensive process of deregulation that would play out in the coming decades. In any case, while her use of the term “dualization” is of the same spirit as Piore’s earlier work, Thelen’s focus is not systems of production, but rather systems of labor relations (as is the focus of this paper).

This paper builds on the work of these scholars, and it will use two recent case studies to understand the challenges and opportunities that the German model of labor relations is experiencing. Since this process involves interaction between the German model and the American model, the case studies span both countries as well. In the first case, I look at an American employer, Amazon, which has shipping warehouses throughout Germany. Amazon is currently facing a dispute with its workers in Germany, and with service employees union Ver.di, since Amazon has decided not to accept the sectoral

wage contract for its employees. In the second case, I look at a German employer, Volkswagen, which recently opened a manufacturing plant in the United States. In this case, Volkswagen remained neutral toward (and in many ways in favor of) unionization of its American factory, a direct result of labor representation on its board of directors. This is considered highly irregular in the American context of labor relations. Indeed, there is speculation that Volkswagen's incentive to unionize its American facility was a result of anxiety among its labor representatives that the American model of labor relations would spread throughout Volkswagen.

These cases illustrate the process of liberalization that Thelen describes, which, according to her takes the form of sectoral "dualization" in the German labor market. That is to say, workers in the industrial core continue to receive protections via collective bargaining, unionization, and co-determination. However, workers in the service sector, which is growing rapidly, often do not receive these protections, as service-industry employers either choose not to honor contracts or find other ways of avoiding regulation. The result is a growing "dual" economy: one set of labor standards for industrial workers, and another set of labor standards for service-industry workers.

Methodology

This paper addresses the following research questions:

1. As nationally-identified firms move globally, to what extent are firms' labor practices accommodating or resisting the labor practices of foreign localities?
2. How are the different legal frameworks of corporate governance and employee rights in the US and Germany affecting these cases of labor organizing?
3. How are the processes of liberalization (deregulation and dualization) that are playing out in the US and Germany affecting these cases of labor organizing?

These questions necessarily traverse wide swaths of territory in the social sciences. Therefore, it is necessary to rely on a mixed-methods approach to arrive at satisfactory answers. In Chapter 1, this paper uses case study comparison to highlight the major features of the cases, which include differences

in national origin of the multinational employer, ownership structure of the employer, and industry sector.

Moving from the cases themselves to a comparison of the contexts within which each American and German firm is located, Chapter 2 looks at the development of institutions in the two countries that moderate relationships between labor and capital. Collective bargaining coverage, union density, and workplace representation in each country are discussed. Chapter 3 compares legal frameworks for labor organizing, discusses the legal framework of the German dual-representation model of unions and works councils, and discusses differences in corporate governance regimes between the two countries. Thus Chapters 2 and 3 address the second question, which relates to institutional difference between the two systems of labor organization.

Finally, this paper places these cases of labor organizing into a larger historical context to explain the dynamic processes of change that are affecting the actors in each case. The firms, unions, and governments involved in the Amazon and Volkswagen cases are facing, in many ways, similar pressures to liberalize their respective labor relations systems. Yet the responses of these actors to liberalization pressures varies substantially. Thus, Chapter 4 focuses on varieties of liberalization as an explanatory theory for the cases.

Sources

This paper uses both primary and secondary sources in constructing the cases. As primary sources, it uses news articles, statistical data, legal documents, court rulings, statements from company websites, union organizing flyers, as well as audio recordings and transcripts of two speeches given at a union convention. As secondary sources, it uses scholarly publications, including books, book chapters, and articles, as well as news commentary and analysis directed to a more general audience. In addition, it uses graphics, including charts, tables, and maps, both from scholarly sources and of the author's own creation.

The Case of Amazon in Germany

It is important to establish a point of reference for labor relations at Amazon in its place of origin, the US, before discussing its operations in Germany. Founded in 1994 in Seattle, Wash. by Jeff Bezos, Amazon quickly established itself as the leading online retailer for a variety of consumer goods. Using a unique strategy of supply-chain management that involved creating large warehouses known as “fulfillment centers,” Amazon has established itself as an employer of over 150,000 employees worldwide. Amazon went public in 1997, surviving the burst of the dot-com bubble but nonetheless experiencing financial difficulties during the early 2000’s. The firm is well-known in the financial world for rarely turning a profit, preferring instead to focus on innovation and expansion. (Stone 2013)

Additionally, Amazon is well-known in the labor community for successfully defeating multiple unionization attempts in the US. In the early 2000’s, roughly 400 customer service representatives in Seattle attempted to unionize with the Communication Workers of America. Meanwhile, nearly 8,000 warehouse workers throughout the country attempted to unionize with United Food and Commercial Workers (New York Times 2000). At the time, Amazon founder and CEO Jeff Bezos was quoted as saying, “We don't believe in unions, because everybody is an owner, and everybody has rights as individuals to talk about workplace concerns.” (Bloomberg 2000) Bezos’ remark on ownership refers to the stock options with which customer service representatives were reimbursed during the dot-com bubble of the late 1990’s, stock options that lost significant value in the subsequent market crash. Regardless, both of these unionization attempts at Amazon ended in failure, and tellingly, Amazon closed the call center in Seattle during the campaign (TIME 2014).

Amazon has made it clear that it views employee organizing as a threat. Yet warehouse workers in the US have continued to protest over working conditions, as well as low wages and scheduling practices (Puget Sound Business Journal 2012). In 2010 workers at a distribution center in Allentown, Penn. were treated for exposure to sub-zero temperatures in a fire-alarm evacuation that left them out

in the cold for hours (Morning Call 2011). The following summer ambulances were called to the same facility to treat workers for heat exhaustion when temperatures inside the warehouse soared to 115 degrees Fahrenheit (Puget Sound Business Journal 2012).

In June 2014, Amazon came under investigation by OSHA (Occupational Safety and Health Administration) for “serious” labor standards violations after two workers died at Amazon warehouses in a period of six months (Los Angeles Times 2014). The first death occurred at facility EWR5/EWR7 in New Jersey in December 2013. A worker employed by Abacus, a staffing firm that provides temporary workers for Amazon, was crushed in a conveyer system while sorting packages and later died of his injuries (USA Today 2014). The second death occurred in June 2014 at facility PHL4 in Carlisle, Penn., in which a warehouse worker died when she was crushed by falling shelves (Harrisburg Patriot-News 2014). While five companies with which Amazon contracts were fined for violations, Amazon itself was not fined (Los Angeles Times 2014). At the outset of the investigation, OSHA indicated that it was concerned that large companies were using third-party contracting of temporary workers to shirk safety concerns (USA Today 2014).

Earlier in the same year, Amazon defeated its most recent unionization attempt. The International Association of Machinists and Aerospace Workers (IAMAW) attempted to organize a group of 30 technical workers at facility PHL7 in Middleton, Delaware. Notably, the campaign reached the level of an official vote, the first time in nearly 15 years of labor organizing that this has occurred (NLRB Case 04-RC-118495). However, Amazon brought significant pressure against the campaign, including organizing anti-union meetings. The result of the January 2014 vote was 21-6 against unionization (TIME 2014). The union would have been the company’s first in the US.

In Germany the company is pursuing a similar strategy of avoiding wage contracts. Having opened its first fulfillment center in Germany in 1999 (MWPVL International 2015), Amazon currently operates nine such facilities (Figure 2) throughout Germany, employing about 9,000 German workers

(BBC News 2014). Since it has well over 500 employees (the legal threshold), the company is subject to German co-determination laws (*Mitbestimmungsgesetze*), and currently there are works councils functioning at each of the facilities. The 2 million member-strong German services industry union Ver.di (*Vereinte Dienstleistungsgewerkschaft*) has been pressing Amazon for several years to accept its standard wage contract, negotiated for employees of the retail industry. Amazon has countered, arguing that its fulfillment center workers are logistics rather than retail workers. In response there have been significant strikes at several of the facilities in the past few years, organized by Ver.di. Manners-Bell (2014) summarizes the dispute thusly:

“It is interesting that the union concerned, Ver.di, describes the dispute as being driven by arguments over the definition of what Amazon actually does. In essence, a large part of the retail sector is being shifted to a business model characterized by much lower costs. One element of this change is the more efficient use of land and inventory, but also includes the opportunity to decrease employee unit labour costs as workers in fulfilment centres can be controlled and worked much harder than staff in traditional shops.” (121)

According to its literature, many aspects of Ver.di’s contract would provide substantial increases in wages and benefits to workers. (Figure 3) For example, it would provide a starting hourly wage of about 13 Euros, an increase from Amazon’s current starting wage of about 10 Euros. Additionally, it would mandate annual Christmas bonuses at a set percentage, as well as vacation money and irregular working time bonuses (for weekends and evenings). What is notable about this case is that many aspects of the contract that Ver.di is pushing for are not substantially different from the benefits that Amazon workers currently receive. For example, the contract calls for relatively small increases in annual vacation time (2-8 days) and a small reduction in weekly working time (1.25 hours).



Figure 2: Map of Amazon locations in Germany, Poland, and Czech Republic, as of May 2015. Source: MWPVL

Thus, while the monetary increases would be significant with a contract, many of the contract stipulations seem less significant. In a sense, both Amazon and Ver.di seem to be treating this not only as a matter of finance, but as a matter of principle. In public statements, Amazon workers have displayed a sense of concern over “American” labor practices being imported to Germany (Greene 2014). Meanwhile, Amazon has been publically unruffled by the labor dispute. Nonetheless, the company seems to be pursuing a typically hard-edged strategy in avoiding a union wage contract. It seems likely that Amazon is concerned about a “domino effect” of unionization at other facilities, should it be forced to accept a wage contract in Germany.

Das bringt der Tarifvertrag Einzel-/Versandhandel NRW!

	Amazon	Tarifvertrag
Urlaub	28 Tage	30/36 Tage (5-/6-Tage-Woche)
Wochen-Arbeitszeit	38,75 h	37,5 h
Sonderzahlungen	freiwillige Bonuszahlungen + Aktienpakete	gesicherte und klare Ansprüche
Weihnachtsgeld	400 €/ 600 € (erstmalig 2013 gezahlt)	62,5 % vom Gehalt z.B. 1.316 € für Picker/ Packer
Urlaubsgeld	-	1.182 €
Zuschläge		
Mehrarbeit	15 %	25-40 %
Nachtarbeit	-	55 % bei Arbeitszeiten zwischen 19.30-6h
Sonntagsarbeit	-	120 %
Feiertagsarbeit	-	200 %

Das lohnt sich, oder?

Was verdiene ich bei Amazon mit Tarifvertrag?

Wenn wir Amazon dazu bewegen, den Tarifvertrag des Einzel-/Versandhandels anzuwenden, dann ändert sich einiges bei der Bezahlung. Die verschiedenen Tätigkeiten würden entsprechend des Tarifvertrags eingruppiert und vergütet.

Am folgenden Beispiel zeigt sich der Unterschied deutlich. Derzeit werden Tätigkeiten wie Picker, Packer, Inbound, Outbound, Receive und Stow nach Level 1 bezahlt. Das sind 10,10 €/h im ersten Jahr, 11,73 €/h im zweiten Jahr und nach zwei Jahren 12,16 €/h. Nach dem Tarifvertrag gibt es von Beginn an 12,96 €/h!

Beispiel 1

Level 1 – Erstes Jahr der Tätigkeit
Wechselschicht (2 Wochen Frühschicht, 2 Wochen Spätschicht)

	Amazon	Tarifvertrag
Grundvergütung pro Monat	1696,80 €	2106 €
Nachtzuschlag für Arbeitsstunden nach 19.30h pro Monat	0,- €	250,96 €
Summe	1696,80 €	2356,97 €
+ 660,16 € pro Monat!		

Beispiel 2

Level 1 – Drittes Jahr der Tätigkeit
Wechselschicht (2 Wochen Frühschicht, 2 Wochen Spätschicht)

	Amazon	Tarifvertrag
Grundvergütung pro Monat	2042,88 €	2106 €
Nachtzuschlag für Arbeitsstunden nach 19.30h pro Monat	0,- €	250,96 €
[Summe]	2042,88 €	2356,97 €
+ 314,08 € pro Monat!		

Nach dem Tarifvertrag Einzel-/Versandhandel NRW verdienen die Beschäftigten bei Amazon also einige hundert Euro mehr im Monat.

Dazu kommen in beiden Fällen noch
Weihnachtsgeld 1.316 €
Urlaubsgeld 1.182 €

Darauf haben alle Beschäftigten Anspruch.

Fazit: Ein Tarifvertrag bei Amazon bedeutet:

- Mehr Lohn und Gehalt!
- Urlaubs- und Weihnachtsgeld!
- Niedrigere Arbeitszeit!
- Mehr Urlaub!
- Mehr Sicherheit!



Figure 3: Ver.di campaign brochure listing differences between Amazon's current wages and benefits and those of a standardized wage contract (Tarifvertrag)

In February 2013, Amazon came under significant fire after a documentary on the German television station ARD aired. (Deutsche Welle 2013) The documentary alleged that Amazon had hired a security firm with neo-Nazi ties, HESS Security, to intimidate its warehouse workers. Specifically, the firm mistreated temporary immigrant workers who were working in Amazon warehouses in Germany during the holiday rush, according to the documentary. Testimony from temporary workers indicated that security guards dressed in neo-Nazi attire initiated random searches in workers' housing facilities and threatened eviction over minor disputes. In response to the documentary, Amazon ended its contract with HESS Security. (Greene 2014)

It is worth reiterating that while the actions of HESS Security are likely unlawful, Amazon isn't necessarily acting illegally with regard to the wage contract dispute itself. Indeed, the company has made a point of publically mentioning its compliance with the German works council law (Wall Street

Journal 2013). Yet, as Streeck discusses, the German government lacks the ability to intervene directly in labor disputes and force a settlement (Streeck 2003). Instead, companies are free to accept or reject sectoral-level union contracts, although in earlier times high levels of unionization and collective bargaining coverage meant that companies generally accepted union-negotiated contracts or offered pay commensurate with them in order to attract and retain workers. Therefore, in sectors or regions without high levels of unionization or collective bargaining coverage, many workers lack Germany's traditional labor protections.

The Case of Volkswagen in the US

Formed in Germany in 1937 ("The Foundation of the Volkswagen Plant," Volkswagen AG), Volkswagen currently operates 106 automotive manufacturing plants throughout the world, and employs nearly 600,000 employees (Patta 2014). Volkswagen's automotive assembly plant in Chattanooga, Tennessee opened in 2011. It employs about 3,200 workers, and according to company press materials, is the only LEED Platinum certified auto plant in the world (The Chattanooga 2011). Since the time of its opening, labor relations at the plant have taken a series of meandering and complicated turns. This was a result of several interrelated factors.

Like any German company of its size, Volkswagen is run with significant input from its labor force. Its individual facilities function with works councils that themselves form a tiered works council setup (Rueb 2002). Representatives from each plant participate in what is known as the VW Global Works Council. Additionally, the supervisory board has labor representation as well, as mandated by the German co-determination law. Because the German State of Lower Saxony is a significant shareholder in Volkswagen, and because the state is currently governed by Social Democrats (SDP), labor holds substantial sway among the Volkswagen leadership. (Times Free Press 2015)

Therefore, since the opening of the assembly plant in Chattanooga, Volkswagen has sought to have the plant participate in its global works council. However, according to American labor law, for

workers to participate in a labor-management partnership such as a works council, they must be simultaneously represented by a labor union. This posed a difficulty for the Chattanooga plant, since it operates in a strongly anti-union region, a right-to-work state in which the political leadership actively courts industries to locate because of its low union activity. Fortunately for Volkswagen, the United Auto Workers (UAW) had long been attempting to organize in the region.

Once a 1.5 million member union, the UAW's current active membership stands at around 400,000, with more than 600,000 retirees. The continuing decline of Detroit-based auto manufacturing and relocation of manufacturing to states where labor organizing is more difficult (so-called "right-to-work" states) has meant that UAW has been forced to take several concessionary contracts, including contracts that create "tiered" wage structures for new employees. The consensus among labor analysts is that for the UAW to survive, it is necessary for them to successfully organize foreign-owned auto manufacturers in the American South. (USA Today 2014)

Unlike most American employers facing unionization, Volkswagen remained formally neutral in the ensuing organizing campaign (Patta 2014). Unusually (by American standards) it did not exercise its right to hold anti-union information sessions, or hire counter-organizing consultants, or fire employees for union activity (an illegal but common practice in the US). Instead, the company saw unionization as part of a normal business structure. Moreover, in the US unionization is a legal prerequisite to establishing a German-style works council.

It is worth noting that the local business community, as well as the political leadership of Tennessee, reacted with something akin to horror at the prospect of a large-scale unionization campaign going unopposed in Tennessee (Greenhouse 2014). Notably, much of their ire was directed at Volkswagen itself. Republican political leaders spoke out against the company as unfairly colluding with a labor union, and warned that if labor costs at Volkswagen rose too high, the company would likely relocate elsewhere. In a strange twist, an anti-union legal group filed unfair labor practice (ULP) charges

against Volkswagen, an unusual use of the ULP charge by an anti-union outside group against a union-friendly employer.

The organizing campaign developed another unusual aspect as well: the emergence of an alternative, anti-UAW union, the American Council of Employees (ACE). Begun by workers who supported unionization but had concerns about the UAW, the ACE did not participate in the eventual NLRB election. As a single-location union, a rarity in American labor relations, the ACE's focus was not to bargain a wage contract, but rather to implement a works council. (DePillis 2014) The ACE alleged that the "dual model" of works council and union representation that UAW proposed would merely rename and delegate some functions of the UAW union local to the works council, concentrating control of the works council within the UAW. As a result, the ACE proposed its own works council model to Volkswagen. (American Council of Employees website, 2014)

The end result of the organizing campaign was a narrow loss for UAW, when the workers voted 712-626 against unionization in February of 2014 (NLRB Case 10-RM-121704). Initially, the UAW, as well as its partners (German autoworkers union IG Metall, labor union federation IndustriAll, and the VW Global Works Council) characterized the election as "stolen" and blamed local politicians and outside groups for interference. VW Global Works Council Group General Secretary Frank Patta's fiery remarks at the 2014 UAW convention are worth quoting at length:

"You all know the bare facts of what had happened. Now dear friends, brothers and sisters, Gary [Casteel, UAW Secretary-Treasurer] has said it: The election has been stolen from us. The people in Chattanooga were deprived of their chance to set up a works council, and to have a union... for now. What I have seen, what has happened in the days and weeks before the election period, in this small town of Chattanooga, is something that I personally have never seen in the twenty-five years in which I have done union work. The colleagues on the shop floor were hit with a barrage of anti-union propaganda, the likes of which I have never seen before. There were leaflets, there were billboards with vicious claims, newspaper articles, radio spots, press conferences. And it did not even stop before the family members, our friends and neighbors."

Patta continued:

"Dear friends, this was not the Volkswagen company being active here. Volkswagen behaved fairly in this election process and remained neutral. No, it was not the company. It was the conservative politicians in Tennessee and anti-union forces from the outside. They organized the campaign in front of the factory gates, costing millions of dollars. A campaign where you might have thought it was not about a democratic election, but about fighting an attacker from the outside. These conservative and anti-liberal forces toyed with the fears of people, with the fears of colleagues, with the fears of our brothers and sisters. The people

who wanted to use their democratic rights were declared under ideological war. They were threatened. ‘If you vote for UAW, your jobs will be in danger. Or they will be gone.’ That’s what they said. This was an election where fear was the issue.” (Patta 2014, translated from German)

While the UAW initially filed a lawsuit challenging the election on the basis of interference, it ultimately dropped the charge in order to proceed with further organizing. Eventually, through legal maneuvering, Volkswagen was able to recognize UAW as a “minority union” among its employees, UAW Local 46. This means that although UAW lacks the legal right to bargain a contract for all employees in the bargaining unit, it can still advocate on an informal basis for employees. Indeed, under the new policy, entitled “Community Organization Engagement (Figure 4),” Volkswagen has announced that employee representatives who meet a lower-than-majority threshold will still be allowed to meet with management on a regular basis, allowing both the UAW and the ACE to participate in discussions.

Level 1	
Membership support requirement	> 15%
Engagement opportunities	<ul style="list-style-type: none"> • In addition to the normal rights and opportunities discussed above, employees are free to: <ul style="list-style-type: none"> - Reserve and utilize space in the Conference Center for internal employee meetings on non-work time once per month - Post announcements and information in company-designated locations • Organization representatives (employees only) may: <ul style="list-style-type: none"> - Meet monthly with Volkswagen Human Resources to present topics that are of general interest to their membership
Level 2	
Membership Support requirement	> 30%
Engagement opportunities	<ul style="list-style-type: none"> • In addition to the Level 1 opportunities noted above, employees may: <ul style="list-style-type: none"> - Reserve and utilize space in the Conference Center for meetings on non-work time once per week - Invite external representatives of their organization for Conference Center meetings once per month - Post materials on a dedicated/branded posting board - Meet quarterly with a member of the Volkswagen Chattanooga Executive Committee
Level 3	
Membership support requirement	> 45%
Engagement opportunities	<ul style="list-style-type: none"> • In addition to the Level 2 opportunities noted above, organization representatives (internal or external) may: <ul style="list-style-type: none"> - Reserve and utilize on-site locations for meetings on non-work time (with staff and/or employees) as reasonably needed - Meet bi-weekly with Volkswagen Human Resources and monthly with the Volkswagen Chattanooga Executive Committee

Figure 4: Volkswagen Community Organization Engagement Policy

This arrangement is a significant step toward meeting the requirements in the US for union representation in a works council environment, but still falls short of employees electing a union as an exclusive bargaining representative. Therefore, as of May 2015 it appears that the future of the works council at Volkswagen in Chattanooga is unclear. (Clothier 2015)

Parallel trends in postwar Germany and the United States

What can explain the policies of employers in these two recent cases of labor organizing? Why is Amazon resisting an extremely common practice in Germany, the standardized wage contract? And why is Volkswagen implementing a works council in Tennessee? In order to answer these questions, it is important first to understand the historical paths of organized labor in the United States and Germany.

The conclusion of the war left the German economy in ruins and established the US as the dominant force in the global economy. Despite their divergent roles as victor and vanquished, the economies US and West Germany both experienced tremendous growth in the postwar period, along with most industrialized countries (Hobsbawm 1994: Ch. 9). This sustained growth, combined with institutions that redistributed economic gains, ensured that both the US and West Germany established strong middle classes, which endured for decades (Hobsbawm 1994, Piore 1984). Perhaps the most significant of these redistributive institutions is organized labor, represented by labor unions in the US and by both labor unions and works councils in Germany.

The US Case

In the US, organized labor charted a rocky but progressively more powerful path in the mid-20th century. The rejection of industrial unionism for craft unionism by the largest union, the American Federation of Labor, meant that the character of American unionism would be fundamentally conservative, focused primarily on securing economic returns for members (Laslett et. al. 1984). Despite this, industrial unionism survived in the US primarily through the Industrial Workers of the World (IWW), and later the Congress of Industrial Organizations (CIO). Notably, the CIO organized auto workers and

waged several successful (and innovative) strikes in the 1930's particularly through its member union, the United Auto Workers (UAW) (Juravich 2007).

During the mid-20th century, the increasing complexity in business forms had strong implications for organized labor. As Juravich describes, organized labor's tactical development in the 20th century can be seen as a response to the corporate structure. The 1937 UAW strike at GM (also known as the "Flint sit-down strike") is emblematic of this. Workers there exploited the vulnerabilities of GM's diversified production process to bring production to a standstill with a strategic strike at a particular facility. (The effect of corporate structures in labor relations will be further described in Chapter 3.)

Company	American Woolen, Lawrence (1912)	GM Flint (1937)	U.S. Steel (1965)	Bridgestone/ Firestone (1996)
Union	Industrial Workers of the World (IWW)	United Auto Workers (UAW)	United Steelworkers (USW)	United Steelworkers (USW)
Corporate Structure				
Production	Single Plant	Multiple plants	Multiple plants	Global plants
Distribution	Regional	National	Some international	Fully international
Financing	Partnership	Early U.S. -- based corporation	Mature U.S. -- based corporation	Global corporation
Role of the state	No institutional involvement in labor issues	Increasing militancy Pressure on state	Heavily in tripartite IR system	Undermining of extant IR system
Union forms of resistance	Simple strike	Selective strike	Pattern bargaining	Comprehensive campaign

Figure 5: Historical analysis of corporate structure and successful forms of union resistance in the United States, reproduced from Juravich (2007) with author's addition of "Union" row

The actions of the US federal government during the New Deal era and World War II coincided with a surge in union membership. Utilizing an effectively "corporatist" model, the Roosevelt administration sought to institutionalize labor unions as one stakeholder in a tripartite model of negotiations between labor, management, and the state. The 1935 National Labor Relations Act (NLRA, or "Wagner Act") made provisions for labor union elections, dispute resolution, and the filing of charges for "unfair labor practices," all overseen by the federal government (Juravich 2007, Piore 1984). It also

paved the way for labor-management partnerships in the US during the war, as many unions, particularly those of the CIO, made “no-strike” agreements to aid the war effort, in return for substantial wage and benefit concessions from employers (Juravich 2007, Piore 1984). This legislation opened the door to a new wave of unionization in the US, and ensconced organized labor as an indelible part of the American political landscape for the following decades.

The strong role that organized labor played in the US postwar economy had significant effects. With high rates of unionization came good wages and steady employment, resulting in high purchasing power for consumers. This also meant that income inequality dropped to its lowest levels on record in the late 1960’s (Appendix 2). During the same period, unionization rate of employed workers hovered around 25% (Appendix 2). While this may seem like a low percentage of the overall workforce, Piore notes that in manufacturing industries, postwar unionization was substantial. He estimates that in 1948, 70% of all manufacturing jobs were unionized (Piore 1984: 79). This high rate of unionization was a direct cause of postwar macroeconomic stabilization, as it gave rise to a national system of wage determination. Piore (1984: 79-80) describes five principle elements of postwar wage determination:

- The model United Auto Workers–General Motors agreement, which used a formula to link wage increases to productivity increases and the consumer price index
- Pattern bargaining, which allowed the UAW–GM agreement to spread to other unions
- Federal labor legislation, which codified and encouraged unionization, incentivizing even non-union employers to offer union-scale wages
- Minimum wage legislation, which set a floor on wages
- Public-sector wage-setting mechanisms, which linked public-sector wages to union scales

In the 1970’s, however, the unionization rate began to fall, and despite picking up slightly at the very end of the decade, would continue to fall until the present day. Relatedly, with the decline in unionization, income inequality began to rise, and continued to rise to the present (Appendix 2). During this time, the US began to pursue a process of deindustrialization (Reich 1985, Bluestone 1982). While the process of shifting from capital-intensive traditional manufacturing to high-tech manufacturing, lean manufacturing, and services was primarily undertaken by business interests who saw opportunities to

realize higher returns on manufacturing elsewhere, the US government also encouraged this process (Reich 1985). In the late 1970's and early 1980's the term "industrial policy" was used by both Republicans and Democrats to describe the use of government incentives to encourage American capital to abandon traditional manufacturing in favor of new enterprises (Reich 1985, Bluestone 1982). The transition to a post-industrial economy was therefore further accelerated by official government policy, and although many experiments were attempted, organized labor was unprepared to do intensive organizing in the sectors that came to replace traditional manufacturing (Juravich 2007). Within the larger context of deindustrialization, the manufacturing industries that have remained in the US have either relocated to regions where labor costs are lower (not coincidentally, southern states where labor organizing is more difficult due to right-to-work legislation) or are under pressure to keep labor costs low in competition with southern labor costs. Given the availability of low-cost labor in the South, many industries have used the threat of relocation there as a point of leverage for industries throughout the country (Bluestone 1982: 180-187).

In summary, the experience of the US labor movement the mid-20th century could be described as a "Paradise Lost". While this characterization fails to capture the many shortcomings of mid-century unionism in the US, it does adequately describe the economics of organized labor's experience.

Hobsbawm's characterization of the postwar economy is apt:

"Yet it was not until the great boom was over, in the disturbed seventies, waiting for the traumatic eighties, that observers – mainly, to begin with, economists, – began to realize that the world, particularly the world of developed capitalism, had passed through an altogether exceptional phase of its history; perhaps a unique one." (Hobsbawm 1994: 257-258)

It was in this context, for a relatively brief period in US history, that organized labor was seen as a legitimate stakeholder. Since that time, however, organized labor has continued to wane in both influence and relevance for most American workers.

The Federal Republic of Germany Case

Piore describes the modern German labor movement as being a product of two distinct traditions: the strong craft tradition that existed even before the unification of Germany, and a newer wave of militant industrial unionism emerging from the rise of the Social Democratic Party (SDP) at beginning of the 20th century (Piore 1984: 145-146). Improbably, the view of the firm as a community, with strong emphasis on norms of fairness, came to coexist with the more antagonistic leanings of the socialists. In the wake of the 1918-1919 revolution, after a brief power struggle between factory councils and the SDP (allied with national labor unions), a division of responsibility was established. Factory councils would be recognized in the new Weimar Republic, but unions would set national standards of pay and benefits. While this arrangement was severely disrupted during the Third Reich, it would be re-established in the Federal Republic of Germany after the war.

The experience of the labor movement of the Federal Republic of Germany in the postwar era shared many similarities with that of the US, but also distinct differences. Similar to the US, the West German economy greatly benefited from the underlying forces of the postwar global economy, posting significant growth for decades (Hobsbawm 1994: Ch. 9). In the 1950's and 1960's, the West German economy's GDP growth rate significantly outpaced that of the US. In addition, during the twenty years from 1950 to 1970, West German per capita GDP growth outpaced that of the US in fifteen of those years (Appendix 1). And while Gini coefficient data is only available for Germany starting in 1962, the available data indicates a nearly uninterrupted drop in income inequality from 1962 to 1988 (Appendix 2). This indicates that while the West German economy was growing, those gains were also being shared broadly.

An analysis of the data also reveals that union membership and income inequality are less correlated in Germany than in the US. While in the US, union membership data and Gini data had a correlation coefficient of -0.78, for Germany this correlation coefficient is -0.56. This could indicate the

effects of other redistributive institutions besides labor unions. Indeed, Germany has such institutions: board-level co-determination and plant-level works councils.

In the 1950's a series of legislative acts, the *Mitbestimmungsgesetze*, established board-level co-determination in several industries, particularly coal and steel production (Cullingford 1977). Initially, co-determination mandated only one-third board representation for workers in companies with 500 or more employees. In 1976 the law was strengthened with regard to companies with over 2000 employees (Cullingford 1977). The newer law mandates that for these larger companies, half of the seats of a company's supervisory board should be allocated to worker representatives. This legislation was highly sought-after by the German trade union confederation (DGB) and controversial when it was passed, but it now appears firmly entrenched as a pillar of the "German model" of labor relations.

Works councils (*Betriebsraete*) in Germany have a longer, but similar history. Throughout the 1800's, sporadic works councils emerged in small industries throughout the German lands. However, it wasn't until the Weimar Republic era when works councils were formally enshrined in law (Cullingford 1977). According to the 1920 law, companies with more than 20 employees were required to form works councils, who held consultative power within the companies. The law was struck down during the rise of the Third Reich, during which time labor relations were far more tightly controlled by the state.

In the postwar era, however, works councils were again implemented in Germany, first through the Allied Control Council (Kontrollratgesetz Nr. 22, 1946) and later in the Federal Republic of Germany. In this new era, works councils played an important role in representing worker concerns to management. Together with board-level co-determination and labor unions, works councils have contributed significant support to the "German model" of labor relations (Streeck 1997). These institutions have historically worked together to create an export-oriented "coordinated market economy" (Hall & Soskice 2001) that can compete globally while avoiding a race to the bottom regarding wages and working conditions.

Thus, in the German economy, multiple points of contact developed between labor and management. Wages and benefits are negotiated through pattern bargaining between labor union federations and employer federations on regional and/or sectoral levels, overseen by the government. Workers have a say in non-wage issues, such as plant operations, through works councils. Meanwhile, co-determined supervisory boards (*Aufsichtsräte*), which contain significant employee representation, set long-term policy for the company. As previously stated, the result of this system was high wages, competition on the basis of product/service quality (known as diversified quality production) (Streeck 1997), and significant decision-making responsibility delegated to workers.

Summary

This chapter has laid out the major features of two recent cases of labor organizing involving the US and Germany: the Amazon workers at warehouses in Germany, and the Volkswagen workers in Chattanooga, Tennessee . It has placed these cases within a shared historical context of similar postwar struggles between labor and capital in an era of prosperity for advanced economies. Yet despite the similar economic forces the two countries experienced, and the US's significant influence in reconstructing Germany after World War II, the two countries developed differing norms and expectations for relationships between labor and capital. The next chapter will systematically explore these differences, giving particular attention to differing institutions that affect labor relations, and apply the findings to the Amazon and Volkswagen cases.

Chapter 2: The US and Germany: Two Varieties of Capitalism?

It has been shown that the labor relations choices of two multinational employers, one American and one German, diverge from one another in distinct ways. Moreover, they diverge from the expectations for employers in the respective national contexts in which they operate. The American employer, Amazon, refuses to honor a standardized wage contract for its German employees, insisting instead on setting wages itself. Meanwhile the German employer, Volkswagen, insists on implementing a works council at its plant in the US.

In each case, a multinational employer is attempting to go against the grain of a country-specific system of labor relations, and is experiencing difficulties in doing so. But how can we make sense of these country-specific systems of labor relations? Why did each country develop a distinct pattern of labor relations, despite facing the same challenges and opportunities of the postwar era? And why are imported approaches to labor relations in each country so fraught with difficulty?

A comparison of the German and American systems of labor relations begins to answer these questions (Figure 6). In the German system, there is a much higher degree of wage coordination, with pattern bargaining between labor union federations and employer federations as the traditional norm. On the contrary, the US has no real wage coordination between firms, and when bargaining exists, it happens on a firm-by-firm basis. The collective bargaining coverage and union density statistics are telling as well. In Germany, union membership is a voluntary association separate from collective bargaining coverage. In the US, being a union member is strongly linked to being covered by a collective bargaining agreement, with only a few percentage points difference between the two statistics. Workplace representation in Germany occurs under a dual system of works councils and labor unions, while in the US labor unions are solely responsible for workplace representation. Finally, board-level representation, while mandated in Germany, is practically unheard-of in the US.

	United States (2010)	Germany (2010)
Degree of wage coordination	None	Mixed industry and economy-wide bargaining with pattern setting
Bargaining level	Firm-level	Sectoral/industry level
Collective bargaining coverage	13%	61%
Union density	11.4%	18.6%
Workplace representation	Union (with very few exceptions)	Union and works council
Board-level representation	None mandated, very unusual	Board-level co-determination mandated by law

Figure 6: Comparison of American and German labor relations systems. Source: Thelen 2014, with data from AIAS (www.uva-aias.net/208)

In effect, the Amazon and Volkswagen cases exemplify the differences not only between two systems of labor relations, but between two different varieties of capitalism itself. Indeed, this phrase “varieties of capitalism” aptly describes the body of literature that attempts to systematically explore differences between various relationships between labor and capital. And while there have been previous systematic studies of comparative capitalism, the varieties of capitalism literature provides an excellent entry point for an analysis of the Amazon and Volkswagen cases for a number of reasons.

First, the literature articulates a challenge to predictions of convergence toward American-led neoliberal capitalism, predictions which have not come to pass despite ongoing changes in many advanced capitalist economies. Second, the literature provides a valuable bridge between business studies and comparative political economy, both of which are relevant to the Amazon and Volkswagen cases. Third, the varieties of capitalism literature is firm-centric, suggesting a relational view of firms as they solve coordination problems regarding industrial relations, corporate governance, and employee access to information, among other things. Fourth, it provides a convincing taxonomy of advanced capitalist economies, beginning with liberal market economies and coordinated market economies, which succinctly describes the different labor relations systems in the US and Germany. Fifth, the varieties of capitalism literature provides a framework within which to study institutional differences

that affect both the Amazon and Volkswagen cases. Finally, the literature also creates space for a systematic exploration of culture, informal rules, and history, which have substantial effects on the actors in the cases. (Hall & Soskice 2001)

Germany as a Coordinated Market Economy

As mentioned, Hall & Soskice propose a spectrum of ideal types of advanced capitalist economies, ranging from a liberal market economy to a coordinated market economy. According to the authors, Germany's economy can be considered a coordinated market economy, or CME. CME's feature high degrees of coordination, cooperation, and consultation between government, capital, and labor, as well as long-term relationships between market actors and expectations of public dialogue surrounding decision-making. Indeed, Germany can be seen as the quintessential coordinated market economy, due to its institutions of co-determination and works councils, as well as standardized wage contracts.

Moreover, firms organized in coordinated market economies such as Germany share complementary traits as well. For example, with access to "patient capital," which is provided on the basis of historical firm performance rather than short-term profits, firms are free to institute labor protections and job security for workers. (Firms are also likely to have shareholders who hold shares for strategic, rather than value-generating, reasons.) These firms also feature significant levels of worker participation in decision-making. Although legally-mandated, this worker participation is often seen as a form of competitive advantage within the firm. Accordingly, the corporate structures of firms organized in coordinated market economies often feature complex checks and balances within a tiered management system. Each of these can be seen as a form of institution, relating to Hall & Soskice's theory of institutional competitive advantage.

The roles of these institutions are visible in the Volkswagen case. The German State of Lower Saxony (*Niedersachsen*) is a significant shareholder, holding 20 percent of the voting shares for strategic reasons. This provides significant stability to Volkswagen, as it is able to focus on objectives besides

short-term profits. Regarding the corporate structure of Volkswagen, organized labor plays a significant role, such that as of May 2015 the acting chairman of the supervisory board is Berthold Huber, former president of German labor union IG Metall (and its parent federation, IndustriAll). (A transcript of Huber's 2014 address to the UAW's convention is available in Appendix 3.) Volkswagen also evidently finds value in the works council model, as it has gone out of its way to incorporate its plants in other countries, including the US, into its Global Works Council. To that end, Volkswagen's official statement on its Global Works Council states:

"This [social responsibility] includes Volkswagen's active cooperative conflict resolution between the Works Council and the company management. We created European and Global Works Councils early and without any statutory obligation. We do not cling to traditional questions of co-determination. Rather, we discuss the development of the company with our Works Council representatives. This is the way from co-determination to shared responsibility." (Volkswagen Group Basic Principles)

It is therefore clear that Volkswagen can be considered a product of a coordinated market economy, and its attempt to implement a key feature of a coordinated market economy in the US highlights many of the key characteristics of coordinated market economies.

The United States as a Liberal Market Economy

Hall and Soskice contrast coordinated market economies with liberal market economies, or LME's. The quintessential LME is the United States, which features little coordination between the state, capital and labor, short-term contracting in business relationships, an emphasis on competition rather than coordination between different market actors. Firms in the United States are also much more likely to be owned by institutional investors, whose portfolio approach to investing places share value above all else. Indeed, the recent trend has been toward shorter spans of stock ownership in the US. In 1960, the average stock was owned for 8 years. As of 2010, the average span of ownership was 4 months (Stout 2012).

One result of this high rate of stock turnover is that firms in LME's are less protected from unprofitable quarters than firms in CME's, and less likely to offer long-term job security to employees. The proliferation of this arrangement throughout the US labor market is therefore one cause of the

comparatively high labor market fluidity. This fluidity also transfers over into “flexible” working time arrangements, as firms seek to transform labor from a fixed to a variable cost. Additionally, workers in liberal market economies such as the US are far less likely to receive labor protections, such as a union-bargained wage contract, and LME’s almost universally lack worker-participation institutions like works councils. Finally, firms in LME’s are less likely to have complex checks and balances within the governance structure, and more likely to locate decision-making power within one position, a chief executive officer who has wide discretion.

In the case of Amazon in Germany, it is clear that the company was organized in a liberal market economy. The company has successfully resisted unionization several times previously in the US, and has a reputation for relying strongly on competition among its professional employees for job security and bonuses. Among its low-skilled workforce, Amazon uses primarily flexible and contingent working time arrangements. Additionally, the company’s strategic planning is driven primarily by founder and CEO Jeff Bezos, who has stated numerous times that his goal for Amazon is to create a fundamentally customer-centric organization, primarily through radical innovation and continuous expansion, both geographically and into new markets. Notably, this focus has come at the cost of profitability, as Amazon has reinvested substantial revenue into Bezos’ vision. This, in turn, has caused concern among shareholders and skepticism among market analysts (Yglesias 2014), although Amazon did post its first significant profit in many years for the fourth quarter of 2014 (Frizell and Stout 2015).

As a mirror-image of the Volkswagen case, Amazon’s attempt to implement a key feature of a liberal market economy (unilaterally-determined wages) in a coordinated market economy (Germany) have been fraught with difficulty. As predicted by the varieties of capitalism literature (Howell 2003: 111), Amazon’s attempts to work outside of established wage-setting norms in Germany have been controversial. In large part, this controversy is a function of what Hall & Soskice refer to as the effects of culture, informal rules, and history on institutions, particularly in coordinated market economies. In

Germany, while standardized wage contracts are indeed formal contractual arrangements, they exist alongside informal norms and customs that have traditionally governed employment relations. (It is worth noting that Germany did not have a national minimum wage until 2015.) Thus, while employers are legally allowed to opt out of standardized wage contracts, doing so is frowned upon. Nevertheless, Amazon is pursuing just this strategy for its warehouse workers in Germany.

The German Model in Flux

It is worth returning here to one of the main focuses of the varieties of capitalism literature. Writing against the “neoliberal convergence” literature of the late 20th century (such as Fukuyama’s *End of History*), Hall & Soskice instead propose a theory of national varieties of capitalism, in which national institutions determine paths of capitalist variety. They argue that these coordinated and liberal varieties each come with significant advantages and disadvantages, but are functionally equal in terms of global competition. Thus, rather than predicting a “neoliberal convergence” toward US-style liberal capitalism, the authors propose a sort of “dual convergence” or polarization, in which national economies move toward polar extremes, either liberal or coordinated styles of capitalism.

Yet despite these predictions of sustained development of nationally-situated varieties of capitalism (also known as “path dependency”), other scholars are skeptical of the viability of coordinated market economies. In recent times the German model has been under substantial pressure, to the extent that is unclear if it can survive. Indeed, the German model has already changed in many important ways, and continues to change. Streeck (1995) lays out several potential sources of this pressure: 1) a “secular exhaustion” of the model, that is, an inability to continue the complicated balancing act between the state, employers, and workers; 2) the shock of German reunification, and 3) external pressures from globalization. Each of these has been written about extensively, however they each deserve some explication here as well.

Streeck describes the secular exhaustion within the German system as derived from its relatively hands-off approach, for example, it lacks the ability to intervene directly in disputes between labor and capital, unlike other coordinated-market economies (CME's). Instead, the German model relies on a complex interaction between public and private institutions: an education system that sorts students into vocational tracks at an early age, employers who are willing to take on apprentices and incorporate input from their employees, industry-wide employer and union federations that are willing to bargain in good faith, strong unions that can coordinate the actions of their membership, works councils that both provide input to employers and coordinate strategy with unions, and of course, a state that adequately incentivizes bargaining, funds education, regulates labor standards, and "soaks up" the remainder of the labor force who cannot find work via unemployment benefits and job training. It is in this last role that Streeck locates a possible source of exhaustion within the German model. While unemployment in Germany has generally been higher than that of other advanced capitalist economies, Germany experienced a full-blown unemployment crisis in the early 1980's.

Streeck (2003) documents the politicking surrounding the Kohl government's attempts to move people off of welfare rolls and into jobs. Part of the problem was simply the organizational lack of capacity for additional employees in most industries. Thus competing plans emerged: limiting working time to 35 hours per week, and limiting the working-time over the career of employees. Among the labor movement there emerged a split between unions who pushed for one over the other. This resulted in a particularly militant six-week strike by the metal workers union (IGM) in the summer of 1984 in favor of implementation of a 35-hour workweek. The strike led to a settlement of 38.5 working hours per week, with significant concessions for scheduling and other forms of flexibility. Further concessions prohibited unemployment benefits for workers displaced as a result of an industrial dispute, significantly raising the stakes for strike actions.

According to Streeck, the IGM settlement fundamentally altered the shape of German labor relations by beginning a process of decentralization that continues today. Employers began to use “flexibilization” to extract greater productivity and cost savings from workers, without comparable increases in remuneration. Eventually in the 1990’s IGM came around to support the position it had previously opposed: retirement with pension at age 60, a position championed by the Schroeder government. This required significant investment by the state, and as Streeck writes, it had the effect of reducing the labor supply by using the welfare state as a “safety valve.”

“Secular exhaustion” in the German model can also be seen in Germany’s minimum wage policy (or until recently, its lack thereof). In 2014, the German Bundestag approved the country’s first ever national minimum wage, a tacit acknowledgement that the German workforce was at risk of experiencing a “race to the bottom” in wages. Prior to this legislation, Germany relied on a high degree of collective bargaining coverage to ensure high wages. Under this approach, even workers not directly covered by collective bargaining agreements would benefit, as a high wage would need to be offered to attract workers.

Streeck (1995) also discusses the effects of reunification in Germany, which he describes as a “shock.” He describes the West German policy of essentially trying to “buy” East Germany into the West, through annual transfers of nearly \$100 billion. This was a result of West German anxieties over a potential “low-wage zone” in the east throwing off the meticulous balance of the economic system. Thus West Germany attempted to transfer its institutional structure to the East as well, in an effort to ensure that these institutions were not eroded away in the West.

However, there remain enduring discrepancies between the former East Germany and the former West Germany with regard to the institutions of the German model. According to statistics from the *Institut für Arbeitsmarkt- und Berufsforschung*, the German labor market research organization, the rate of collective bargaining coverage is significantly lower in the former East Germany. In 2011, 49% of

the former East German workforce was covered by collective agreements, compared to 61% of the former West Germany. (Worker-participation.eu 2013) What is also notable is that employers are more likely to opt out of regional or sectoral agreements in the former East, instead choosing less-stringent company contracts. In the former East, 12% of employees were covered by company contracts, compared to 7% in the former West, according to the same data. This lends credence to Streeck's argument that reunification is causing a strain on the German model.

Finally, the third pressure that Streeck describes is that of globalization. In this process, it is possible to see the German model of public investment, education, and labor relations interacting with an internationalized version of American-led liberal capitalism. While Streeck's 1995 essay doesn't refer to globalization as such, other scholars see the pressures of globalization in Germany as merely one iteration of a dialogue between different forms of capitalism. Accordingly, the two cases this paper discusses, which involve labor organizing at multinational corporations, are inextricably driven by processes of globalization, and therefore represent the pressures that Streeck identifies.

In the Amazon case, the German model of labor relations and its primary actors (labor unions, workers, and the state) are contending with an employer that exemplifies the existential threat to the German system. Amazon is an American firm, radically-innovative, focused not on shareholder value but rather on flexibility, expansion, and innovation at all costs. Its operations in Germany are not located within the manufacturing sector or other traditional industries, but rather logistics, a sector that traditionally has few labor protections, low wages, and is difficult to organize. Amazon's refusal to accept the standard wage contract negotiated by Ver.di, the services industry union is seen by organized labor in Germany as a direct challenge to the system. Finally, Amazon's compliance with the *Betriebsverfassungsgesetz* demonstrates a fundamental, though common, misconception about works councils that persists in liberal market economies: that they are a substitute for unions. In reality works

councils are legally forbidden to bargain over wages and cannot mount strikes, which is perhaps why they are more popularly seen (again, incorrectly) as an alternative to labor unions.

The Volkswagen case also exemplifies the pressures from globalization that Streeck identifies. As German multinational corporations go abroad, it is likely that some will encounter national systems of labor relations less friendly to organized labor than the German system, such as the system of labor relations in the US. Inevitably, this creates internal pressure on wages and benefits within the firm, as labor in one plant is more expensive than in another. This is a common aspect of globalized production processes, but no unionized worker wants to experience this situation. In the Volkswagen case, however, worker representatives were able to push for the works council model (and in effect, unionization) at the American plant in Chattanooga. Thus, while the Volkswagen case typifies the anxiety that organized labor in Germany feels over intensified interaction with market forces via globalization, the case also demonstrates the opportunities for future labor organizing that globalization brings.

Sometimes the boss is the best labor organizer: a firm-centric view of the cases

This chapter relies on the varieties of capitalism literature for the core of its analysis. However, as Howell (2003) notes, one of the primary shortcomings of the initial varieties of capitalism literature is that it essentially ignores organized labor. Howell describes organized labor as “very much a minor actor in *Varieties of Capitalism*.” (2003: 112) It may seem peculiar, then, to use this literature to discuss two ongoing cases of labor organizing. However, this paper places the varieties of capitalism literature at the center of its analysis for several reasons.

First, this paper’s fundamental research questions concern the behavior of the firms, not the behavior of organized labor. In the Volkswagen case, the central question is “Why is Volkswagen implementing a works council?” not “Why is the UAW assisting in implementing a works council?” In the Amazon case, the central question is, “Why is Amazon resisting a standardized wage contract?” not

“Why is Ver.di insisting on a standardized wage contract?” These questions are appropriate because in each of the cases, it was the actions of the firm that created the initial point of contention. And in each of the cases, the explanatory variable for the particular outcome is firm preference. Accordingly, varieties of capitalism literature recognizes firms as the main drivers (Hall & Soskice 2001: 6, Howell 2003: 105).

Second, in at least one of the cases, the union involved was merely a bit player in its own organizing campaign. It seems reasonable that for a particular actor to be afforded agency in a case study, the actor should be capable of strategically pursuing its own goals independently of the other actors. In the Volkswagen case, this was simply not true for the UAW. Unionization was attempted at the Chattanooga plant because the employer was amenable to it, not because of the UAW’s power. And despite four years (Patta 2014) of planning, international cooperation from two of the strongest unions in the advanced industrial world (IG Metall and IndustriAll), and the tacit support of the company itself, the UAW was unable to win the election. While political interference can certainly be blamed to an extent, it should be taken as a given in a right-to-work state, and accounted for in the organizing campaign. Regardless, the prime mover of the Volkswagen campaign was the firm, with local political figures also playing a larger role in the outcome than the union itself. Therefore, the varieties of capitalism literature is a useful tool to understanding the dominant role of the firm in labor relations scenarios such as the Volkswagen organizing campaign.

Third, the points of contention involved in each campaign do not revolve around traditional issues of conflict in labor relations (usually distributional). Rather, they involve firms’ attempts to import foreign labor practices. In the case of Volkswagen, this means establishing a new formal institution (a works council). In the Amazon case, this means resisting a traditional informal institution (a standardized wage contract). Again, the prime mover in each campaign was the firm, with questions of differing institutions of labor relations at the core of each campaign.

Finally, the more recent literature that most satisfactorily explains these cases, literature that focuses on institutional change and liberalization, has its roots in the varieties of capitalism literature. Indeed, as Howell notes, of the many contributors to *Varieties of Capitalism*, Thelen was the only one who put industrial relations at the center of her analysis (Howell 2003: 112), although still affording less power to organized labor than to employers and the state. Thelen's later work would continue to focus on labor in the context of the dichotomous model of LME's and CME's that was proposed. Thus, while the firm-centric view of the varieties of capitalism literature is the beginning of the case study analysis, it is not the endpoint.

Summary

This chapter analyzed the Amazon and Volkswagen case studies using the varieties of capitalism literature. It established that since the US and Germany represent two varieties of capitalism, a liberal market economy and a coordinated market economy, respectively, firms organized under each system can be systematically characterized by the type of industrial relations, worker representation, and wage-setting institutions they possess. Further, when these firms go abroad, they are likely to attempt to implement these institutions in their new places of business. This is precisely what Amazon and Volkswagen have attempted.

Chapter 3: Comparison of Legal Frameworks

These two cases of recent labor organizing in the US and Germany highlight many of the institutional differences between the two countries. However, it is worthwhile to discuss in depth the legal frameworks that govern labor relations in the two countries. First, it is important to discuss collective rights in each system of labor law: the prevalence and characteristics of collective bargaining and the role of labor unions and works councils in each system. Second, it is worth discussing varieties of corporate governance in the US and Germany, since this has direct implications on the divergent responses of Amazon and Volkswagen to labor organizing. Finally, recent work applying a political economy approach to the corporation sheds light on the theoretical foundations of the German and American models of corporate governance, further explaining the philosophical differences underpinning Amazon's and Volkswagen's governance styles.

Individual versus Collective Rights

Historically, labor law the United States placed a much stronger emphasis on individual rights than on collective rights. As Dubofsky (1999) notes, in the first major struggle between capital and labor in the US, the 1894 Pullman strike, the courts sided firmly with the railroads against the American Railway Union (ARU). The legal reasoning for doing so was that as individual workers, strikebreakers had the right to work under any working conditions they chose, and that the ARU had unlawfully prevented these arrangements from occurring. Thus the American legal system set the stage for a further forty years of labor strife until collective bargaining was formalized nationally in the National Labor Relations Act (NLRA) of 1934.

The NLRA allows for individual workplace elections overseen by a federal agency, the National Labor Relations Board (NLRB). Under this framework, workers elect labor unions to negotiate wages and benefits on their behalf. The NLRA mandates that when a union wins an election, it becomes the sole bargaining representative of the bargaining unit. However, it is important to note that collective

bargaining agreements are negotiated on a workplace-by-workplace basis, rather than at a sectoral or regional level like many countries.

Another important aspect of the NLRA is that while it specifically encourages collective bargaining (US Code 29 §151), the federal government lacks the ability to intervene directly in labor disputes and issue a settlement, as in some countries. In addition, the NLRA specifically outlawed company unions, mandating that employees must be represented by independent representatives, and in effect enshrining adversarial labor-management relationships in law. This aspect of the law is particularly relevant to the Volkswagen case.

Finally, perhaps the other aspect of American labor law that is most pertinent to the Volkswagen organizing case involves the Taft-Hartley Act. The Taft-Hartley Act passed in 1947 and rolled back many of the reforms of the NLRA, tipping the scales of American labor relations back toward employers. Among other things, the law established that individual states could enact "right-to-work" laws, allowing individual employees who were represented by unions to refuse to pay union dues. Thus, in the tradition of the Pullman strike rulings, the Taft-Hartley Act ensured that individual workers could undermine the strategic positions of unions and unionized workforces. Additionally, the Taft-Hartley Act extended the ability to file unfair labor practice (ULP) charges to employers as well, giving management a new tool to use against unions.

In Germany, the legal framework for organized labor is quite different. Bargaining generally takes place on a sectoral level, with labor unions bargaining comprehensive wage and benefit contracts with employer federations. These contracts are then implemented by employers throughout a particular industry. There are several important results from this arrangement. First, the arrangement ensures significant collective bargaining coverage, as entire sectors are covered, rather than a patchwork of workplaces. Second, such an approach effectively takes wages out of competition for an employer, ensuring that a "race to the bottom" in labor costs doesn't occur. Finally, this approach

avoids the “free rider” problem that characterizes much of labor representation in the US, since a worker’s wage contract is contingent upon an institutional process of bargaining at the sectoral level and is associated with that particular position, regardless of whether or not said worker is a union supporter.

Labor representation in Germany also differs from that in the US with regard to both works councils and co-determination. Works councils existed in informal ways in particular industries since the 1800’s, but were formalized during the Weimar Republic. While works councils were outlawed during the Third Reich, they were re-enacted during the Allied occupation, and re-formalized in West Germany with the *Betriebsverfassungsgesetze* of 1952 and 1972. The interaction between works councils and labor unions is complex, as most works council members in a given workplace are likely to be core union activists as well (Behrens 2009). However, the division of duties between the two bodies is clear: While works councils address day-to-day workplace issues, they are legally forbidden from engaging in bargaining over wages and benefits. That is the purview of the labor union. By contrast, works councils are afforded the following rights under German law:

- Information rights regarding personnel information, safety information, and other topics,
- Consulting rights regarding economic matters, such as company splits, mergers, or closures,
- The right of objection to employee dismissals (although they cannot be directly prevented),
- Approval/refusal rights regarding other personnel measures,
- Generally, the right of participation in shaping company decisions.

The employer is required to provide information and consult with the works council as mandated by the law. Additionally, in some larger companies, works councils have access to their own experts, such as economists, to conduct analysis of proposed business changes. There are specific rules for the number of members a works council has, contingent upon the number of employees at the firm (Figure 7).

Works Council Representation in Germany	
Number employed	Number of works council members
5-20	1
21-50	3
51-100	5
101-200	7
201-400	9
401-700	11
701-1,000	13
1,000-1,500	15

Figure 7: Works Council Representation in Germany. Note: Additional requirements exist for firms with more than 1,500 employees.

Regarding co-determination, German law currently mandates that worker representatives participate in the decision-making of the firm at the supervisory board (*Aufsichtsrat*) level. Companies with 500 to 2000 employees are required to allocate one-third of the seats on the board to worker representatives, and companies with over 2000 employees are required to allocate one-half of their seats to worker representatives. While the chair of the board is a representative the shareholders, the chair only casts a vote in the event of a tie. The board appoints and dismisses management, reviews company performance, and sets strategic goals. Thus, workers participate in each of these decisions by holding seats on the supervisory board.

Varieties of Corporate Governance

The role that organized labor plays in corporate decision-making in Germany points to differences not only in systems of labor relations, but also in systems of corporate governance between Germany and the US. In the US, the business corporation developed along the same lines as it did in Britain, as a profit-maximizing entity responsible only to its shareholders, who own the firm. This understanding of the corporation's responsibility was challenged in the mid-1930's, when a high-profile exchange between corporate law professors Adolph A. Berle and E. Merrick Dodd set off a lasting debate regarding corporate responsibility. Bainbridge (1992) refers to this as a contest between

competing theories of “shareholder primacy” and “nonshareholder constituencies,” which he defines as “employees, customers, suppliers, and local communities.” (973)

Essentially, this can be seen as less a positive question than a normative one: Should shareholder concerns or stakeholder concerns govern the firm? Dodd challenged the view that business corporations were solely responsible to their shareholders, as many others in the community are affected by corporate decision-making. Berle on the other hand emphasized that the modern firm had a built-in split between ownership and control, as shareholders rarely were able to influence the decision-making of managers. According to Berle, managers should therefore be given only one charge: to maximize the profits of the firm for the benefit of the owners, who are functionally powerless. As Bainbridge states:

“...[T]he basic corporate governance model is one in which the board of directors acts and the shareholders react. In theory, the board of directors makes most corporate decisions. The few decisions made by shareholders almost uniformly are cast as approving or rejecting a recommendation by the board of directors. Thus, shareholders have virtually no power to initiate corporate action.” (972)

This philosophical debate played out in the American court system in the 20th century. Much of the debate concerned the difference between a corporate manager’s operational and structural decisions. That is, decisions regarding day-to-day operations and those regarding mergers, acquisitions, and takeovers. Two landmark cases demonstrate the evolution of US corporate law regarding structural decisions. In *Dodge v. Ford Motor Co.* (1919), the Michigan Supreme Court famously chastised Henry Ford for attempting to implement higher wages for his workers at the expense of shareholder profit:

“A business corporation is organized and carried on primarily for the profit of the stockholders. The powers of the directors are to be employed for that end. The discretion of directors is to be exercised in the choice of means to attain that end, and does not extend to a change in the end itself, to the reduction of profits, or to the nondistribution of profits among stockholders in order to devote them to other purposes.” (Bainbridge 986)

However, the court refused to intervene further, asserting that the “business judgement rule” (as it would later be called) precluded courts from reviewing business decisions that managers undertook in good faith and with the best interests of the company at heart.

Decades later, the discretion of corporate managers was again strengthened vis-à-vis shareholder wealth maximization in *Schlensky v. Wrigley* (1968). In this case, Chicago Cubs executive Philip K. Wrigley was sued by a shareholder for refusing to hold night baseball games at Wrigley Field, which would have brought in substantial revenue. Wrigley's justification was that the necessary lighting, plus rowdy baseball crowds, would have disturbed the residential neighborhood. The court found in favor of Wrigley, asserting that it could not review decisions made in good faith in the best interests of the firm. Thus, US corporate law has developed such that operational decisions by corporate managers are rarely reviewed by the courts, unless evidence exists that managers are acting in bad faith.

Despite these legal developments in regard to operational decisions, structural decisions, particularly those regarding corporate ownership and takeovers, remain highly scrutinized by the courts. Bainbridge uses the example of a highly profitable corporate takeover that would result in massive job loss for employees. Absent other responsibilities under the law, Bainbridge argues, the managers' duty is clear: to auction off the corporation for the best price in order to benefit shareholders. (983) In this example, it is possible to see the direct effects on workers of the American legal framework regarding corporate governance.

Given this reality, it is understandable why the role of corporate social responsibility continues to be debated in the US. As Bainbridge notes, it came to the forefront particularly during the 1980's, when corporate mergers resulted in significant job losses. In response, there was a concerted legislative effort to enact "nonshareholder constituency statutes" in many US states, which loosened the obligation of corporate managers to solely focus on maximizing shareholder profit. Instead, such statutes allowed corporate managers to take into account nonshareholder constituencies (such as employees) when making both operational and structural decisions. Indeed, the state of Connecticut went one step further: managers of companies incorporated in the state were not merely permitted, but required to take nonshareholder constituencies into account when making decisions. (989) However, Bainbridge is

skeptical of these statutes, claiming that they are more likely to be abused by corporate managers for their own self-interest than to improve or preserve well-being in the community. Notably, Bainbridge also indicates that nonshareholder constituency statutes do not provide for German-style co-determination, since they do not create the duty for management to consult nonshareholders, but merely the option.

Clearly, the question of corporate governance in the US is a thorny one. While the firm is contested, the primary contestation is between ownership (shareholders) and control (management). In this formulation, workers are cut out of decision-making regardless of who hold the reins of power. Indeed, the rise of “shareholder activists” in the 1980’s and 1990’s only worsened outcomes for workers, as firms under strong shareholder control shed jobs to maximize shareholder wealth. Given this context, in which the occasional empowerment of shareholders within an American firm is still far more than workers experience in their capacity as employees, it is understandable why some US labor unions made the strategic decision in the 1990’s to engage in shareholder activism. (Schwab & Thomas 1998) The earlier quote from Amazon founder Jeff Bezos encapsulates this situation well (“We don’t believe in unions, because everybody is an owner, and everybody has rights as individuals to talk about workplace concerns.”) In the constellation of power within the American business corporation, the only empowered employee is the one with stock options, and even then such power is largely a formality.

Generally, theories of the corporation fall into two camps: the traditional view of the corporation as a thing that is owned by shareholders and managed by those they hire, and the more recent neoliberal view of the corporation as a “nexus of contracts.” In either case, they are seen as existing in a private sphere, to be distinguished from the public sphere. However, Ciepley (2013) advances an alternative theory: that because corporations exist and derive their fundamental advantages via governmental charter and engage in governance activities, corporations are neither public nor private. Further, as “franchise governments” that deliberately mimic parliamentary customs

and are not subject to the market forces that affect other business forms, corporations bear “heightened responsibilities” to their stakeholders, both their employees and the public at large. (153)

Analyzing the relationships between business corporations and their employees, Ciepley writes,

“The authorization of corporate management by the state also has implications for worker rights. Without safeguards, the potential for worker exploitation by corporations is quite real. Although business corporations have the external form of constitutional republics, their internal governance is, generally speaking, neither liberal nor democratic. Internally, corporations are for-profit governments whose rulers are, with few exceptions, not accountable to the governed.” (153)

The implications for this are far-reaching. Indeed, as Ciepley notes, while workers do have protections from labor law, “the Bill of Rights... runs out at the company gate.” (153)

It should be noted that this traditional constellation of relationships within the American business corporation, while by far the most common arrangement, is not monolithic. As Bernstein (2012) notes, there have been many experiments in the US and elsewhere embodying a variety of corporate relationships between shareholders, managers, and workers, often involving substantially more worker participation than the traditional corporate form. Indeed, Bernstein analyzes 31 cases of workplace democratization, and arrives at three main types: autonomous firms, such as worker-owned cooperatives in the US, communitarian enterprises, such as Israeli kibbutzes, and state-authorized systems, such as co-determination in Germany and the American system of labor unions. Drawing from these historical examples, Bernstein arrives at a three-dimensional model of worker participation in corporate governance. The three dimensions are:

1. Degree of worker control (0-7) (Figure 8)
2. Range of issues over which control may be exercised (1-16) (Figure 9)
3. Organizational level of employees’ decision-making power (individual to board of directors)

By combining the first two dimensions (Figure 10), it is possible to easily compare systems of labor relations along their most important attributes. For example, we can see that the non-unionized firm has a low degree of worker control, and a small range of issues over which control may be exercised. In comparison, a firm organized under the US system of collective bargaining experiences a significant increase of control in a limited range of issues, such as working conditions, wages, and

benefits. Conversely, a firm organized under the German system of co-determination would be on the outer end of each axis, since workers in the firm exercise a moderately-high degree of worker control, which extends even to structural decisions such as mergers, splits, and acquisitions.

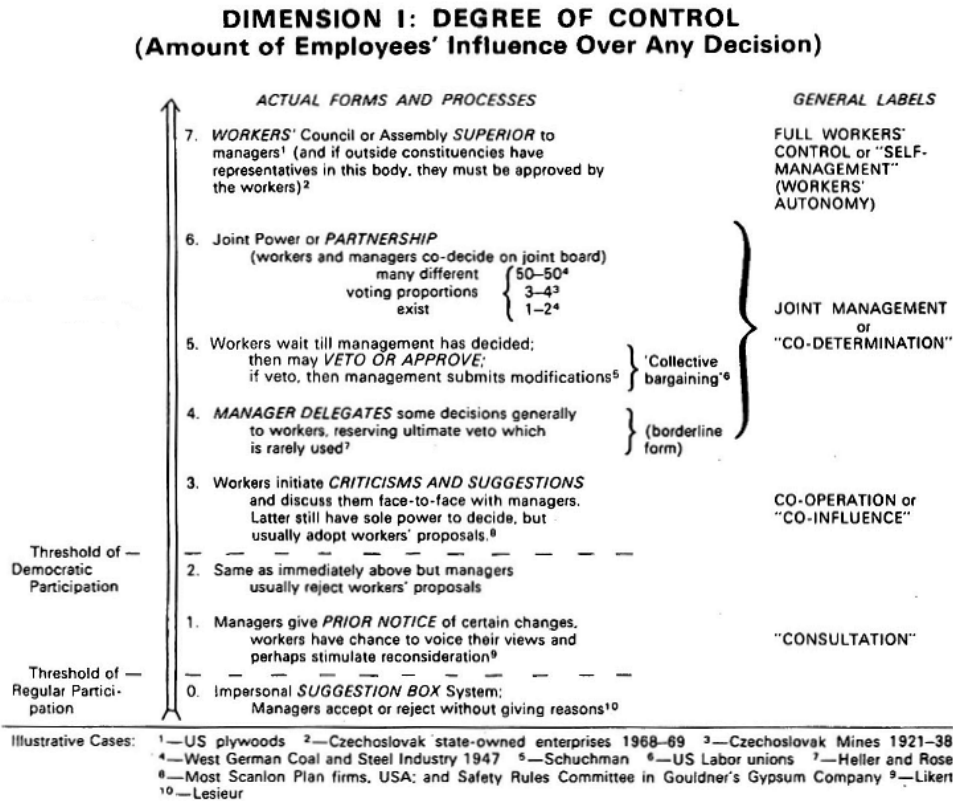


Figure 8 (Reproduced from Bernstein 2012)

Applying this model to the recent Volkswagen and Amazon cases provides a good sense of the trajectory that each case of labor organizing is taking. In the Volkswagen case, workers in Chattanooga are used to working within a non-unionized firm, roughly coordinates (0,1). Meanwhile, Volkswagen itself functions under the conditions best described as coordinates (6,16). According to American labor law, workers must be represented by an independent labor union to participate in a worker-management partnership such as co-determination. Therefore, in order to arrive at the situation described by coordinates (6,16), workers must first arrive at the situation described by coordinates (5,7), collective bargaining.

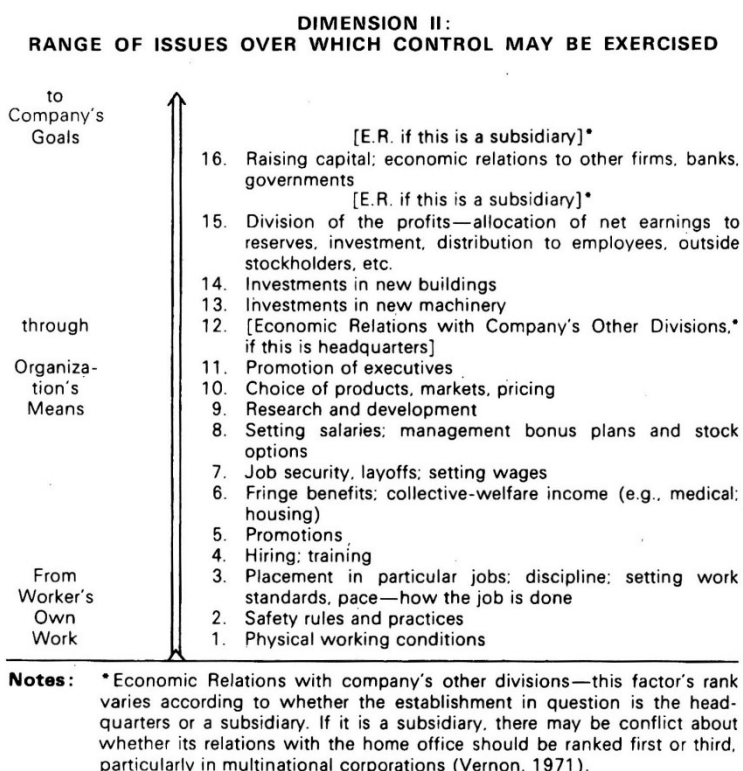


Figure 9 (Reproduced from Bernstein 2012)

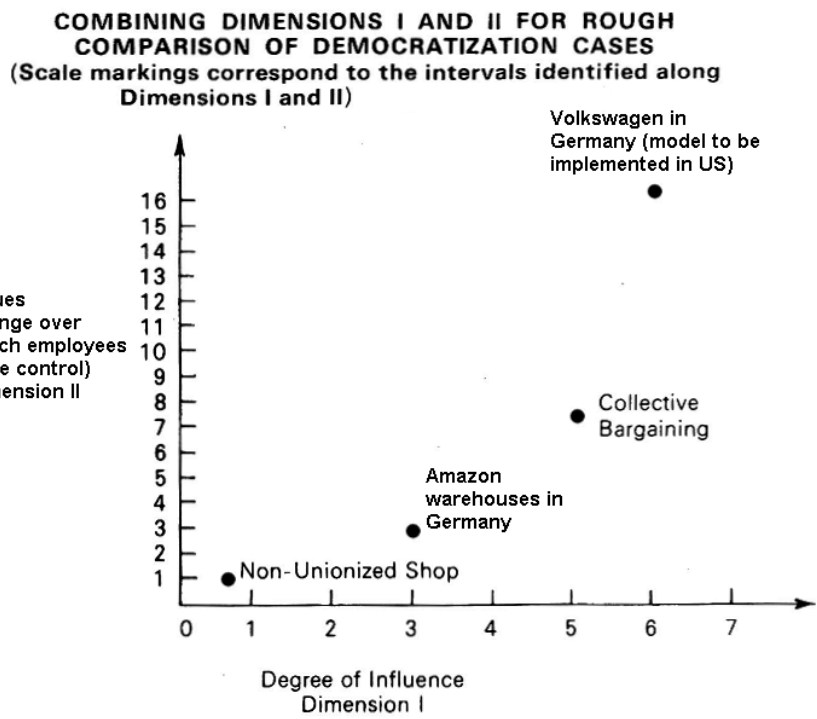


Figure 10 (Reproduced from Bernstein 2012, with additions)

Meanwhile, this two-dimensional model illuminates the vastly differing expectations that Amazon and its German employees have regarding worker participation in decision-making. As an American-based firm, Amazon's primary experience is with the situation described by (0,1), in which workers have little influence over few issues. Were Amazon a German-based company of similar size (9,000 employees) it would fall under the *Mitbestimmungsgesetze*, and half of its governing board would be allotted to worker representatives, coordinates (6,16). However, as a foreign multinational, Amazon does not fall under the *Mitbestimmungsgesetze*. That is, its corporate board is not expected to contain representatives of its German workforce. But Amazon does fall under the *Betriebsverfassungsgesetze*, which mandates the creation of plant-level works councils. Thus, workers at Amazon in Germany find themselves around coordinates (3,3) in Bernstein's model: wielding a small amount of influence over non-wage issues, and able to formally initiate criticisms and suggestions to management. The campaign undertaken by Ver.di can therefore be seen as an effort to get to coordinates (5,7), collective bargaining.

It is worth returning here to the normative question that animated Berle and Dodd's debate, "Whose concerns should govern the firm?" In the United States, the answer to this question remains contested, but in Germany, the question is addressed directly, through co-determination (as well as works councils). Broadly, the business corporation in Germany is conceived of as something more than merely a means to maximize shareholder wealth. Rather, the German business corporation is seen as having several overlapping economic and social roles, and it is governed largely by non-market institutions, consistent with Germany's role as a coordinated-market economy (CME). Vitols (2001) refers to this as pluralism, or German corporations giving "voice" to a variety of stakeholders.

Indeed, this aspect of pluralism is seen not only in employee representation on the supervisory board (*Aufsichtsrat*) but also in the existence of dual management boards, for in addition to the supervisory board, German companies also have a management board (*Vorstand*). While the supervisory board makes strategic long-term decisions (and includes worker representatives), the

management board handles day-to-day responsibilities for the company. There is a clear division of duties between the two boards, and no individual is allowed to hold positions on both simultaneously. Additionally, the relationship between these boards is such that the supervisory board may appoint and dismiss members of the management board, making the management board subordinate to the supervisory board.

This arrangement relates directly to Bernstein's third dimension of worker participation in decision-making, organizational level of employees' decision-making power. This is significant, because it ensures that workers are given "voice" (to use Vitols' terminology) as supervisors of the company, not merely in their capacity as workers. In this way, the three dimensions of worker participation in decision-making overlap with the three primary institutions of the German model of labor relations: Workers have a high degree of control via collective bargaining agreements (for wages), and works councils (for workplace issues), a wide range of issues over which control may be exercised via works councils and board-level co-determination, and participate in decision-making at the highest levels via board-level co-determination.

Thus, in the German model of labor relations, worker participation in corporate governance can be seen as a product of rights-based norms, to be contrasted with the market-based relationships of the American model. By applying Ciepley's conception of the rights of corporate workers to the cases of labor organizing at Amazon and Volkswagen, a new analysis emerges. Amazon's contradictory positions (compliance with the *Betriebsverfassungsgesetze* while resisting a standard wage contract) are both a tacit acknowledgement that in the German context, corporations do not function as franchise governments, as well as a resistance against this reality. Amazon is therefore willing to grant some minor governance rights to its workers (as required by German law), but as in the US, Amazon refuses to cede to non-market institutions its ability to determine its workers' wages and benefits. Meanwhile, Volkswagen finds itself in an opposite situation: It is attempting to grant governance rights to employees

who are unfamiliar with such rights, in a national labor law context that is skeptical of such rights. Notably, both multinational employers find themselves in contexts in which the political establishment of host country prefers a particular labor arrangement, but has limited means to enforce it.

Summary

In conclusion, the legal frameworks in which firms and workers interact differ substantially between the US and Germany, with significant implications for corporate governance. In traditional firm structures in the US, workers are not generally afforded formal rights for participation in corporate decision-making, although they gain some formal rights regarding the negotiation of wages, benefits, and working conditions through collective bargaining. In Germany, workers are afforded formal rights for participation in corporate decision-making through collective bargaining, works councils, and board-level co-determination. Thus, the US and Germany can be seen as two varieties of capitalism not only in their economic systems, but in their legal systems as well.

Chapter 4: Varieties of Liberalization in the German and US Economies

We have seen from the Amazon and Volkswagen cases that the contexts in which the firms operate represent two very different economic systems, as well as two very different legal systems for workers' rights and corporate governance. The varieties of capitalism literature describes these differences fairly well. However, as we have seen from the cases, and from various scholars, the differing systems of labor relations that have developed in the Germany and the US are experiencing changes. These changes are coming from a variety of sources. On one hand, there are the general historical trends of de-industrialization and de-unionization in advanced capitalist countries, as well as the challenges specific to Germany that Streeck laid out. But on the other hand, specific actors, such as the firms in these two cases, are attempting to implement their models of labor relations in new contexts.

The work of Kathleen Thelen is helpful in understanding these changes. She describes the differences between liberal market economies and coordinated market economies as not merely static differences, but dynamic processes. Indeed, Thelen (2001) describes the high level of coordination in CME's as a "dynamic equilibrium." Similar to Streeck's argument, she posits that the arrangements made between labor and capital in CME's are vulnerable to external shocks.

Thelen's more recent work adds another layer of complexity. Rather than merely exhibiting national varieties of capitalism, Thelen argues that national economies experience varieties of dynamic global processes as well; namely, liberalization. She describes this as a process with many possible factors, playing out in different combinations in each economy: shrinking trade union membership, loss of collective bargaining coverage, lack of pattern-bargaining in wage contract negotiations, declining public sector spending, replacement of long-term employment with short-term employment, and introduction of flexible working arrangements. Thelen refers to this process as "varieties of liberalization," which also serves as the title to her 2014 book.

Given these multiple overlapping trends, Thelen proposes a conceptual model that tracks the movement of national economies along two axes: one for “Liberal-Coordinated,” and another for “Solidaristic-Dualistic” (Figure 11). The “Liberal-Coordinated” axis captures the power of peak employer organizations, degree of labor-management coordination, and degree of wage coordination. The “Solidaristic-Dualistic” axis captures collective bargaining coverage, involuntary part-time employment, and youth unemployment. According to her analysis of labor market data from the 1980’s to the present, while the US economy is far on the “liberal” side of the continuum, it has moved slightly toward more “solidaristic”. In contrast, Germany has moved substantially from “solidaristic” toward “dualistic,” while remaining far on the “coordinated” side. But what is dualization?

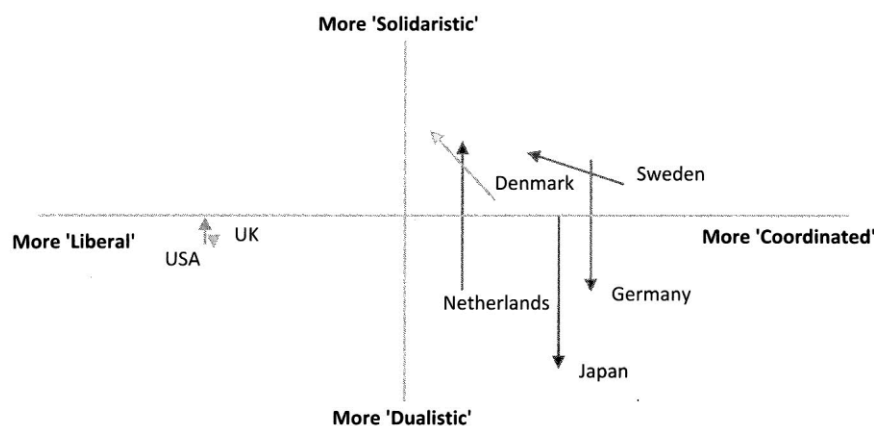


Figure 11: Trajectories of Change, Selected Countries, 1980s to Mid/Late 1990's, reproduced from Thelen, “Varieties of Liberalization,” 2014.

Dualization in labor relations can be described as the existence of parallel labor markets, one for “insiders,” and one for “outsiders.” These parallel labor markets form with the erosion of traditional labor protections, such as collective bargaining coverage, wage contracts, and working-time arrangements. Often, this process has sectoral implications as well, as traditional manufacturing industries retain labor protections, but other industries (retail, logistics, services) become increasingly exposed to market pressures. There is strong evidence that this process of dualization is currently playing out in Germany.

It is worth noting that Thelen contrasts dualization with two other observed outcomes of liberalization. Deregulatory liberalization involves a “direct frontal assault” on institutions that regulate labor relations. This form of liberalization is most commonly seen in LME’s, and Thelen uses the examples of the rollback of collective bargaining rights for public sector unions in Wisconsin. By contrast, embedded flexibilization is the policy of encouraging worker mobility and increased labor market participation by non-traditional workers, but in the context of continued labor protections. Thelen uses the example of the Swedish and Danish economies in recent years.

The process of dualization inherently involves a comparative element. To understand which labor protections are missing in a particular sector, it is crucial to compare it to another sector. The two concurrent labor disputes in the Amazon and Volkswagen cases offer the opportunity to understand the dualistic changes that the German model is facing. The ongoing (as of 2015) labor dispute at the German warehouses of the US-based Internet retailer Amazon provides an excellent look at the way labor relations function in the German service sector. Meanwhile, the recent labor organizing at the US facility of German automotive manufacturer Volkswagen demonstrates both the continued strength of labor protections among employers in Germany’s manufacturing sector (protections so ubiquitous that they are evidently being implemented in the US-based facility).

Is it clear that the Amazon case is part of a larger process of dualization. Amazon is a relative newcomer to Germany as an employer, and given the company’s history of radically rethinking everything from customer service to supply chain arrangements, it is no surprise that this “innovative” aspect of corporate culture is applied labor relations as well. The company has a reputation for ceding nothing to tradition. Thus, Amazon is eager to maintain flexibility in labor relations, and will likely only comply with standardized wage contracts if it were specifically forced to do so in some way.

Not coincidentally, because Amazon as company deliberately eschews convention, in its capacity as an employer it is unlikely to offer the protections that traditionally accompanied work in

Germany. This is predicted by Thelen's use of dualization theory. Unlike traditional industries such as manufacturing, newer industries in coordinated market economies are less likely receive traditional labor protections. The result is effectively a dual labor market in Germany: a traditional labor market with strong formal and informal labor protections, and a newer, more precarious labor market that lacks traditional labor protections.

The Volkswagen case can also be seen as part of a process of dualization, since the company has its roots in Germany. While the actual functioning of the Chattanooga works council remains to be seen, several things are apparent at this point. In the Volkswagen case, we can see the clash of two national varieties of labor relations. In the American variety, workers increasingly lack collective bargaining protections, and the larger political establishment of some regions is either unprepared to enact such protections, or downright antagonistic to these protections. Indeed, the competitive advantage of manufacturing in the American South in the past decade has been through a lower-wage, lower-skill, non-union approach.

Paradoxically, this is the exact opposite of the classic "German model." Perhaps this explains the seemingly unprepared way with which Volkswagen dealt with criticism from the Tennessee political establishment and local business community. In attempting to implement a German-style works council in perhaps the most anti-union region of the industrialized Western world, Volkswagen inadvertently revealed just how foreign the concept of workplace participation in management is in America. This too demonstrates the dualization of labor relations in Germany: while the services sector of the German economy increasingly lacks traditional labor protections, labor protections in the automotive industry are so strong that they are capable of spreading across national borders.

From the perspective of liberalizing changes within the American system of labor relations, the Volkswagen case also demonstrates the variety of liberalization that LME's undergo: deregulatory liberalization. Thelen (2014: 13) refers to this as a "direct frontal assault on institutions supporting the

collective regulation of labor relations,” and cites the 2011 rollback of public sector union rights in Wisconsin as an example of this. But this theory can be applied to the organizing campaign in Chattanooga as well.

Collective bargaining law and open union elections are both institutions that support the collective regulation of labor relations. In 1947, Congress passed the Taft-Hartley Act, which allowed individual states to become so-called “right-to-work” states. This amended the previous definitive legislation regulating labor relations, the 1935 NLRA. In these states, union membership could not be considered a prerequisite for employment. Individual workers were thus incentivized to opt out of union membership, creating a classic “free rider” problem when unions were still required to represent non-members. Tennessee quickly became such a state in the same year that the Taft-Hartley Act was passed. The result was that an institution that previously regulated labor relations, the NLRA, was undermined, as labor organizing was severely hampered in the state (and in other “right-to-work” states).

While this much earlier form of deregulatory liberalization set the stage for a difficult organizing campaign for the UAW in Chattanooga (as Frank Patta said at the UAW convention, it was obvious it would not be a “stroll in the park”), it was the actions of local politicians and anti-union non-profit groups that undermined the institution of union elections. Senator Bob Corker’s actions are perhaps the most striking. During the three-day union election, Senator Corker, the former mayor of Chattanooga, returned to the area to campaign against unionization. At that time, he stated, “I’ve had conversations today and based on those am assured that should the workers vote against the UAW, Volkswagen will announce in the coming weeks that it will manufacture its new mid-size SUV here in Chattanooga.” (Reuters 2014) This directly contradicted statements by Volkswagen management, who had said that the unionization vote would have no bearing on any decision to expand the Chattanooga plant. (Reuters

2014) Moreover, it was seen by many experts as an attempt by a political figure to undermine a free and fair election. (Reuters 2014)

Meanwhile, an anti-union non-profit group, the Center for Worker Freedom, put up billboards in Chattanooga denouncing the UAW. One billboard proclaimed, “The UAW spends millions to elect liberal politicians [sic] including BARACK OBAMA”. Another showed a picture of a crumbling city block, with the caption, “Detroit: Brought to you by the UAW”. (Detroit Free Press 2014) According to its website, the Center for Worker Freedom is a “special project” of Americans for Tax Reform, a project of conservative anti-tax activist Grover Norquist. (“About,” www.workerfreedom.org)

In this sense, the description of deregulatory liberalization as a “direct frontal assault on institutions supporting the collective regulation of labor relations” seems to be an appropriate description for the actions of the local political establishment. It is worth noting that Thelen’s description does not specify exactly which actors are exerting this deregulatory pressure. Traditionally, such pressure comes from capital as embodied by employers. However, in the Volkswagen case, this pressure comes from elected officials and non-governmental actors, both ostensibly aligned with the interests of capital. This pressure from the defenders of capital reached its absurd denouement when another anti-union non-profit, the National Right to Work Legal Defense Foundation, filed unfair labor practice charges against Volkswagen, arguing that the employer itself had deprived workers of a fair election environment by working too closely with the UAW. The NLRB found in favor of Volkswagen in the case (Labor Talk Blog 2015).

Summary

The differences between the US and German systems of labor relations are not merely static political-economic and legal differences. Rather, they are dynamic processes of change that play out systematically in each economy, as each economy responds to changes brought about by liberalization. In liberal market economies like the US, liberalization produces a “direct attack” against organized labor.

In Germany, a coordinated market economy, liberalization produces trends toward dualization; that is, the creation of dual labor systems within the same economy. The Amazon and Volkswagen cases are emblematic of these dynamic processes of liberalization.

At Amazon, a nontraditional employer in Germany, warehouse workers receive fewer of the protections generally afforded by the German model of labor relations. Specifically, Amazon is refusing to implement the standardized wage contract for its employees. Meanwhile, labor protections in Germany's more traditional industries, like auto manufacturing, remain strong. This is evident in the Volkswagen case, in which labor plays such a large role in the company's governance that a significant form of labor protection, the works council, is being implemented across national borders in the Chattanooga plant. The result is one group of workers, the group employed by a German company under the traditional system of labor relations, enjoys traditional labor protections, while the group of workers employed by a nontraditional American employer does not enjoy these protections.

Chapter 5: Conclusion

This paper addressed the following research questions:

1. As nationally-identified firms move globally, to what extent are firms' labor practices accommodating or resisting the labor practices of foreign localities?
2. How are the different legal frameworks in the US and Germany affecting these cases of labor organizing?
3. How are the processes of liberalization that are playing out in the US and Germany affecting these cases of labor organizing?

Findings

First, building on the framework of the “varieties of capitalism” literature, this paper asserts that the divergent actions taking by the two multinational firms (Amazon and Volkswagen) regarding labor organizing stem from the national variety of capitalism in which each firm is incorporated. Amazon, organized in a liberal market economy (LME), pursues a business strategy of radical innovation and flexibility, making it averse to long-term contracts. The company's goal of expansion at all costs, particularly at the cost of profit, across both vast geographic regions and disparate industries, makes it sensitive to market pressures and unwilling to commit to fixed wage contracts. Each of these characteristics is a hallmark of a firm organized under a LME, and explains Amazon's resistance to a standardized wage contract.

Meanwhile, Volkswagen, organized in a coordinated market economy (CME), is predicated on substantial worker participation in governance, as well as a collaborative relationship between management and labor. While this worker participation is legally mandated for Volkswagen's workers in Germany, it is not required for its American workforce. Yet Volkswagen has been persistent in its efforts to implement a works council in the US. This is indicative of the fact that worker participation in governance isn't merely seen as an act of compliance with the law, more is it simply part of Volkswagen's corporate culture. Rather, the close collaboration between labor and management can be seen as a form of “institutional competitive advantage” within the firm (Hall & Soskice 2001). In

addition, the role of strategic shareholders means that firms incorporated in CME's have access to capital that expects steady, long-term growth, not merely short-term profits. In Volkswagen's case, the state of Lower Saxony acts as a strategic shareholder within the firm, and provides strong political backing for the participation of workers within Volkswagen. These aspects, common to firms incorporated in a CME, explain Volkswagen's persistence in implementing a German-style works council in Tennessee.

Second, the differing legal frameworks for corporate governance in the US and Germany explain the wide degree of the difference between Amazon's and Volkswagen's conceptions of labor relations. In the US, the primary actors within a firm are managers, who make the vast majority of decisions that determine workplace policies. Shareholders, while technically owners of the firm, are generally cut out of decision-making processes. Instead, authority is delegated to management, who are tasked with increasing value for shareholders. (Indeed, with the rise of institutional investors such as pension funds, shareholders are far less interested in the operations of particular firms, putting a far greater emphasis on stock portfolio performance.) In this formulation, the primary contestation for control of the firm is between management and shareholders. In the US, workers at business corporations wield decision-making authority in neither operational nor structural decisions, nor are their concerns likely to be taken into account as a nonshareholder constituency.

In Germany, however, firms are organized around the principle of giving "voice" to various constituencies, shareholder or not. Accordingly, workers wield significant authority in the governance of firms. Through works councils workers help determine the working conditions within the firm, giving them a voice in operational decisions. In parallel, workers get substantial representation on supervisory boards of medium-sized and large firms, giving them a significant voice in structural decisions as well. While these elements of shared corporate governance are codified in German law, the Volkswagen case indicates that Volkswagen also finds enough value in this model to extend it to its overseas employees.

Moreover, the differing actions of Volkswagen and Amazon highlight another difference in corporate law between the US and Germany. In the US, the literal word of a contract takes precedence in the courts. Agreements are made, and adjudicated if necessary, based on formal and complete contracts. In Germany, informal norms of fairness take precedence, and contract disputes are rarely adjudicated based on hidden or vague clauses, as they sometimes are in the US. As Kwon notes (2004), public discourse between disputing parties is often seen as preferable to legal action. This is relevant to the case studies as well.

Amazon's refusal to honor the standardized wage contract is a product of its literal reading of German law. The company has no formal obligation to implement a particular wage contract, although not doing so inevitably spurs accusations of unfairness. Meanwhile, in the Volkswagen case, both the highly bureaucratic and formal process by which a works council may be formed in the US (through a successful unionization campaign and a collective bargaining agreement) and the lack of substantive public discourse to solve the dispute are products of the American legal system's focus on complete contracts and formal adjudication. Thus even the legal systems of the US and Germany have developed as complementary institutions to the countries' respective varieties of capitalism.

Third, the substantial differences between the coordinated market economy of Germany and the liberal market economy of the US are not merely static, but rather involve complex dynamic processes. This dynamism necessitates that the changes that are occurring in all market economies (changes roughly grouped together as "liberalization") occur in different ways in different types of economies. In the US, as in other LME's, liberalization often takes the form of deregulation and de-powering of organized labor. In Germany, a CME, liberalization is taking the form of dualization; that is, the creation of dual systems of labor relations, one for traditional industries like auto manufacturing, and one for newer and nontraditional industries, like logistics.

This process of dualization in the German economy is directly relevant to the Amazon and Volkswagen case studies. At Amazon, warehouse workers have some of the benefits of the German system of labor relations, such as works councils. However, they still lack a standardized contract for wages. At Volkswagen, labor's influence remains so strong within the firm that it is implementing a works council (and with it, unionization) in a region of the US that is generally opposed to organized labor. In this way, the automotive and logistics sectors of the German economy now experience different systems of labor relations.

Implications

These cases have shown that not only are there distinct differences between the US and German systems of labor relations, but that these systems undergo different process of change in response to pressures from liberalization. The Amazon and Volkswagen cases also demonstrate the implications of these changes in several key areas. First, the Amazon case demonstrates the effects of liberalization in the German workforce, with the rise of low-wage work (an aspect of dualization). Second, the Volkswagen case in particular shows the effects of liberalization in the American workforce, manifested both as deregulation and as manufacturing flight to the South. Third, the cases have implications for the overall American and German economies. Although these are not the focus of the paper, they are worth touching on briefly. Finally, the Amazon and Volkswagen cases have implications for the study of comparative capitalism, as some aspects of the cases are well described by current theory, while other aspects challenge current theory.

Implications for the German workforce

As noted in Chapter 2, if a distinctly German model of labor relations can be described, it is vulnerable to internal and external pressures. Streeck (1997) describes these pressures as secular exhaustion, the shock of German reunification, and the pressures of globalization. Since that time, all

three pressures have combined to give rise to low-wage work in Germany. The Amazon case is related to this.

According to Eurostat, the European statistics organization, low-wage work is defined as work in which the hourly wage is less than two-thirds of the nation's median wage. Applying this two-thirds figure to the 2012 German median wage cited by German labor research firm IZA (Zimmerman 2014), 11.45 Euros per hour was the threshold for low-wage work in Germany. (It has likely increased since then.) By running the numbers in the Ver.di document (Chapter 1, Figure 3), Amazon's pay comes out to 10.96 Euros per hour for first-year employees, and 13.18 Euros per hour for third-year employees. In comparison, with the decreased working time and bonuses the Ver.di contract would boost that to an effective hourly wage of 15.71 Euros per hour for all employees. Therefore, a portion of Amazon's employees (first-year employees, at the very least) can be considered low-wage workers. Since Amazon's overall workforce in Germany is around 9,000 employees, it is likely that a significant number of workers can be considered low-wage.

Yet this is not uncommon in post-reunification Germany. Low-wage work has grown substantially in the last twenty years, and was accelerated by welfare reforms under the Schroeder government, the Hartz IV reforms. By current estimates, around a fifth of the German workforce now works in low-wage jobs. Eurostat put the 2008 and 2010 figures as 20.3% and 22.2%, respectively. As Bosch and Weinkopf (2008) found, these workers are much more likely to be female, live in the former East Germany, and work in non-manufacturing sectors (such as retail and logistics). Moreover, this rise in low-wage work is partially responsible for the implementation of Germany's first national minimum wage in 2015 (Reuters 2015). Thus the Amazon case can be seen as part of a larger overall trend of low-wage work in Germany.

Implications for the American workforce

For workers in the US, the Volkswagen case has several implications. First, the location of Volkswagen in Tennessee in the first place can be seen as an overall trend of manufacturing to migrate to the South (Gross 2008). The weakness of organized labor in the region can certainly be seen as an element of this. Indeed, in a prominent trade publication of business development in the South, “Southern Business & Development,” the lack of unionization is featured front and center. Among the many positive aspects of doing business in the South, the publication mentions both that the South is the “least unionized region of the U.S.” and also that it is “[h]ome to 13 of the nation’s 22 right to work states.” (“Southern Business & Development,” www.sb-d.com) The website appears a bit outdated, as with the passage of right-to-work legislation in Wisconsin in 2015, the current total is 25 “right-to-work” states. In this regard, perhaps the South has some competition after all. In any case, it appears that manufacturing will continue to grow in the South of the US.

Second, the Volkswagen case demonstrates the relative power of actors within the American system of labor relations, in more detail than was previously available. Generally, management is thought of as having the most agency in terms of setting labor relations policy within a firm. Through organizing campaigns and direct action, workers are sometimes able to form unions and bargain wages and benefits with employers. This is the classic formulation of labor-capital struggles within the American system. However, the Volkswagen case upsets this paradigm. In the Volkswagen case, it was not the preference of the firm that prevailed. Rather, with the firm supporting unionization but ostensibly remaining neutral, the real struggle was between extant forces of labor and capital embodied by the UAW, the VW Global Group Works Council, and the German unions (IG Metall and IndustriAll) on one side, and the anti-union arm of the American political structure on the other. Therefore, it seems that in the American model of labor relations, agency and discretion are afforded to management insofar as management is antagonistic to organized labor. In this case study, when management was

amenable to organized labor, it drew a backlash and lawsuits from the anti-union wing of the political structure. This is relevant to workers organizing in the South because it demonstrates that organizing campaigns must account for not only employer opposition, but also opposition from outside groups.

Third, the Volkswagen case demonstrates the continued weakness of both the UAW, and more generally of organized labor in the South. As has been reported, (Schnapp 2014, Gross 2008), southern non-union auto manufacturing has exerted pressure on unionized auto manufacturing in the North for decades. This, combined with an overall deindustrialization of the North, has meant that the UAW's membership has dropped precipitously. While at its peak the UAW had 1.5 million active members, it currently has roughly 400,000 active members. Although the UAW has seen modest membership gains in the recent few years, many of its gains are coming from non-industrial positions, such as academics (USA Today 2015). The Volkswagen case demonstrates that even with significant help from an employer, the UAW will likely still have difficulty organizing foreign-owned auto manufacturers in the South. Further, the case demonstrates the resilience of anti-union institutions in the South, particularly right-to-work laws and the expectations surrounding the role of outside groups in labor relations.

Implications for comparative labor relations (VoC and beyond)

Finally, these two cases have implications for the study of comparative capitalism. While the theories cited in this paper have largely been complementary to the findings of the case studies, the Amazon and Volkswagen cases do call into question specific areas of the current literature regarding comparative capitalism in two important ways. First, the case studies complicate the narrative that institutions cannot be transferred between types of capitalisms (liberal market economies and coordinated market economies). Second, the cases challenge the foundation of the VoC approach regarding "national" varieties of capitalism.

One of the greatest strengths of the VoC approach, the dichotomous LME versus CME comparison, is perhaps also its greatest weakness. The theory holds that while national economies in

either grouping are likely to become tightly clustered (“dual convergence”), LME’s and CME’s are unlikely to transfer institutions and practices between one another. More specifically, as Howell (2003: 109) elaborates, “coordinated market economies may be subject to a degree of liberalization, while liberal market economies are not subject to the opposite tendency.” Yet this is exactly what is being attempted in the Volkswagen case. Volkswagen is attempting to bring a high level of labor coordination to its plant in Chattanooga, Tennessee. At the time of this writing, it remains to be seen if the works council will be implemented, and how effectively it will work once it is in place. Still, were a works council to be implemented in the American South, it would be a significant rebuke to the orthodoxy of VoC.

Furthermore, as Frank Patta stated in his address to the 2014 UAW Convention, Volkswagen’s other 105 plants around the world operate with works councils. These plants are located in countries such as Mexico, Brazil, and South Africa, countries whose national economies are entirely neglected by the VoC literature. Two questions proceed from this. First, if the characteristics of these national economies were to be described in the depth that countries such as the US and Germany are described, what would their characteristics be? Second, would the functioning of Volkswagen works councils in these economies further complicate the predictions of VoC literature?

Other questions are evident in the Amazon case. As predicted by the VoC literature, Amazon is antagonistic to a major aspect of the “German model” of labor relations, the standardized wage contract. Yet it appears to have no qualms about implementing works councils as required by law, which seems peculiar in comparison. Does Amazon find value in having works councils at its German fulfillment centers? If so, this would contradict the predictions of the VoC literature. Or is Amazon merely abiding by the law?

This leads to the second way in which the Volkswagen and Amazon cases challenge the VoC literature. Another great strength of VoC approach, its focus on the national political economy as the

unit of analysis, also obscures the varieties within the varieties of capitalism. With regard to the labor relations systems analyzed in this paper, a major auto manufacturing plant in the US could very well have a German-style works council in the near future. Meanwhile, a major employer in Germany could very well continue setting wages itself, in the American style, for the foreseeable future. Under what model are these firms operating? Under what model are these workers employed?

Streeck (2011) criticizes the VoC literature on precisely these grounds. According to Streeck,

“Ultimately, political economy might have to abandon entirely the idea of national varieties of capitalism and advance toward a concept of an internationally variegated capitalist world system. There is no need for a theory of global capitalism to deny the possibility of diversity, along national or regional lines, just as current theories of national capitalism sometimes allow for internal variation between regimes and practices by subnational territories or economic actors.” (2011: 38)

A new framework that moves beyond the conception of varieties of capitalism as national could address the questions of the Amazon and Volkswagen cases more fully. It could account for subnational varieties of capitalism, such as in the US, as one could argue that the “rules of the game” (institutions) differ substantially across state and regions. It could also account for supranational political economies, such as that of the European Union, whose constituent countries form a mishmash of LME’s, CME’s, and uncategorized varieties. While there are hints that the literature is progressing to this level, more work remains to be done.

To sum up, the German model of labor relations developed in the postwar era from a unique blend of circumstances. While it was capable of delivering a high standard of living through high wages, competition on quality rather than price, and strong labor protections, its future remains contested in the face of internal economic hardships as well as competition from the global American-led model of liberal capitalism. Through processes of liberalization, the German economy has changed from a “solidaristic” economy to a “dualistic” economy, with attendant changes in labor relations. While scholars continue to debate the meaning of these changes, many features of the German model, such as

works councils, are still thriving, and indeed are spreading across national borders. Thus the German model is in a state of flux: contested at home, but nevertheless expanding abroad.

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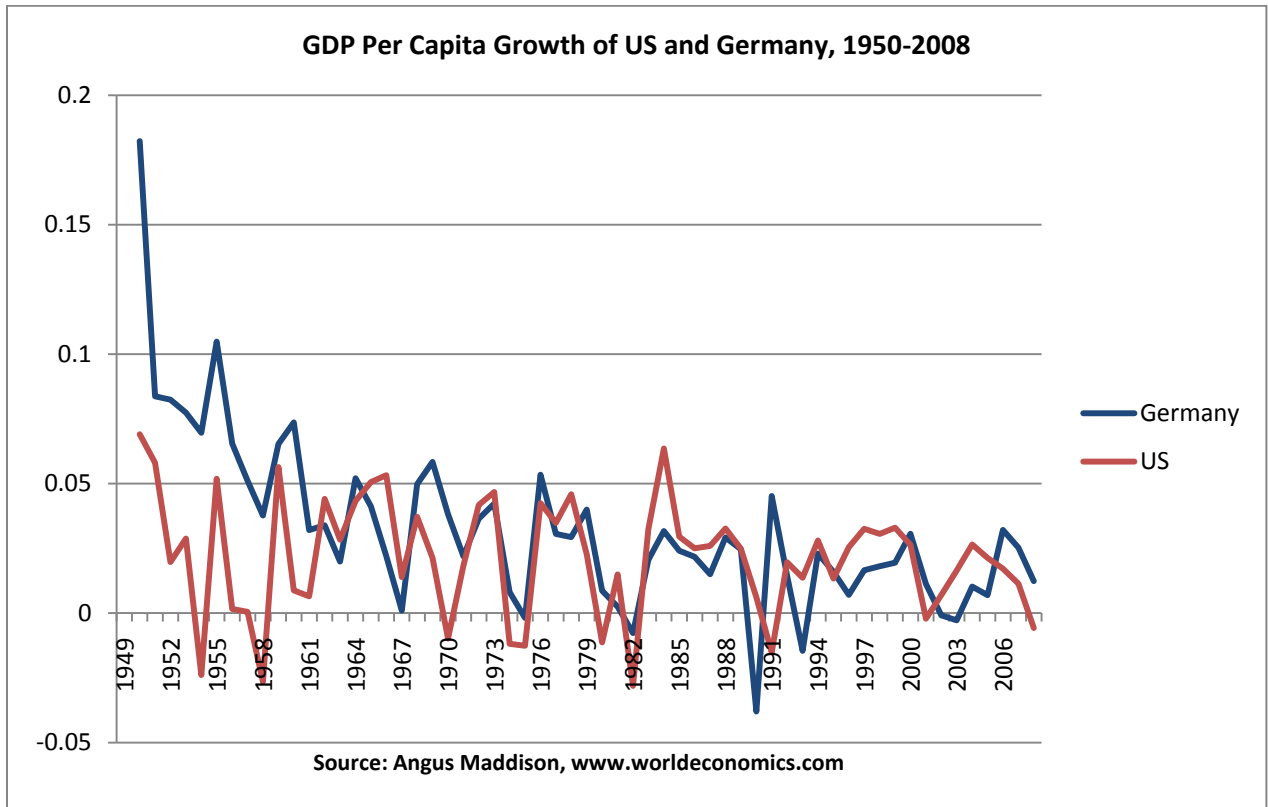
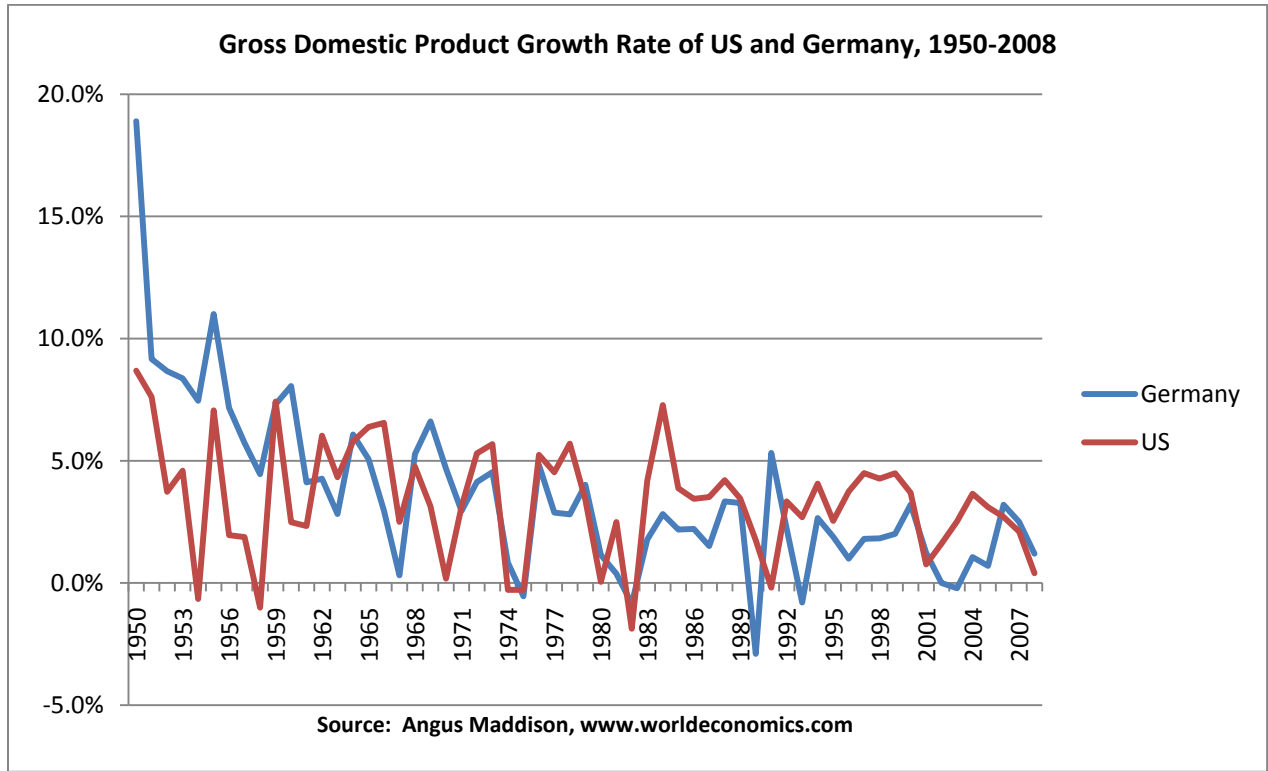
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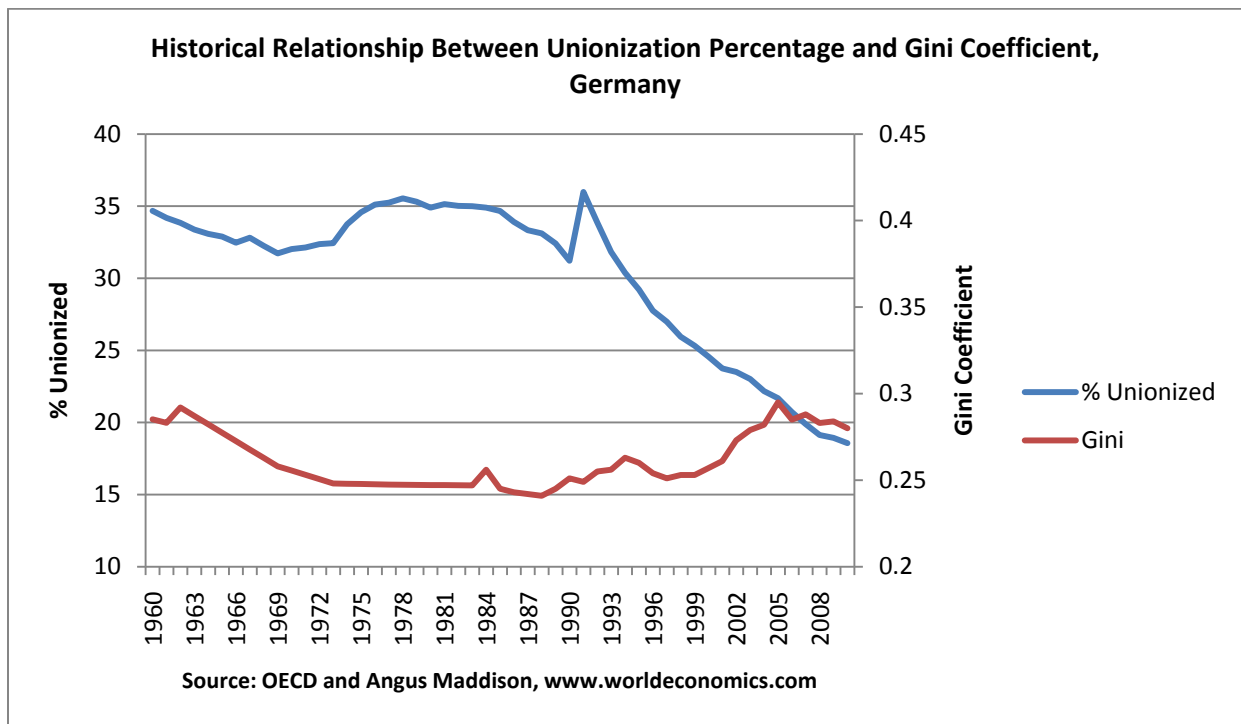
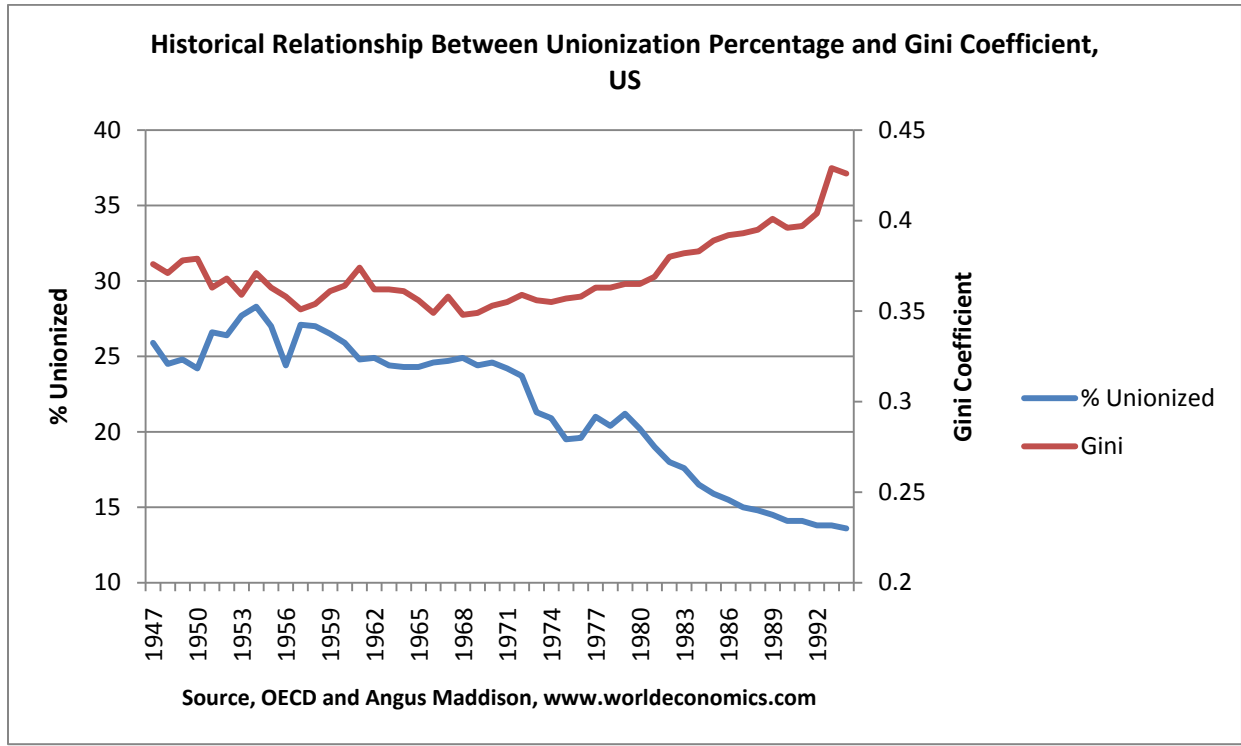
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Appendix 1: Historical economic growth in US and Germany



Appendix 2: Historical unionization and income distribution in US and Germany



Note 1: Prior to 1983, only Gini coefficients for 1978, 1973, 1969, and 1962 are available. Therefore, Gini coefficients were projected using linear regression for the intervening years.

Note 2: Data includes only West Germany prior to 1990. Unionization data for Germany prior to 1960 was unavailable.

Appendix 3: Transcripts of Addresses to UAW 34th Constitutional Convention by German labor leaders

*Transcript of address to UAW 34th Constitutional Convention by Volkswagen Global Works Council
General Secretary Frank Patta*

June 2, 2014

PATTA: Yes, brothers and sisters, good morning.

Thank you very much for the kind words of introduction, Gary [Casteel, UAW Secretary-Treasurer]. Colleagues, friends, brothers and sisters. First of all I would like to say thank you so much for inviting me to Detroit. For me it is an honor, and it is a great pleasure to be here amongst friends in a convention of this very traditional United Auto Workers union, you who have a lot of influence. And it's wonderful to not just be a participant but to be able to talk to you. I'd like to say thank you to [outgoing UAW President] Bob King, to [incoming UAW President] Dennis Williams, and to my friend Gary, for your support, for your solidarity for our colleagues at Chattanooga.

Over time, and Gary has said it, it has been such a long time, we have created a good and close international cooperation based on friendship, and we all know that we will only be able to meet our goals together. And I'm looking forward to further continued cooperation, because I feel at home when I come to your union. Brothers and sisters, the reason why I'm speaking to you also lies in the fact that we unionists belong to the people who do not simply complain about injustices, but we fight them, because we all know very well that each and every time an injustice happens to one person happens to all of us. This is true yesterday, and today, and tomorrow. And this is why I feel proud to call myself a labor union member. Someone like you. I am one of you. No matter whether we come from Germany, Brazil, Japan, Italy, or the United States, we are all labor unionists. And we are all working on our dream to achieve a better world for our workers.

Brothers and sisters, there is another reason why I am speaking to you today. I want to use the opportunity to report about a dispute that happened in this very country, the United States of America, a country that stands for democracy, for freedom, and for respect. A nation that was created on the principle of all people being created equal, and where the rights of all people are considered to be restricted when the rights of a single person are threatened. Brothers and sisters, what is happening in many factories in the south of the United States, in Mississippi, in Alabama, in South Carolina or in Tennessee is the rights of our brothers and sisters are trampled on. The right to get organized. The right to represent one's interests. The right to be protected. Companies fight labor unions and unionists using their fear of losing their jobs. Republican politicians are fighting against workers with millions of dollars behind their backs in order to prevent unions from being on the shop floor. In order to weaken workers and their rights. In order to turn workers and their labor into something cheap and keep that cheap.

PATTA: Now be that as it may, four years ago we started out together at the site, in Chattanooga, in Tennessee, to start representing workers' interests at the plant. German Metalworkers' Union, our works council, and UAW joined forces to give workers the right to form a union. Your union, the proud

UAW. And we want to go one step further. We want to get co-determination for the workers at Volkswagen in Chattanooga, just like for Volkswagen and the rest of the world in our 106 factories all over the world for more than 600,000 workers. We want a dual model with a strong union like UAW and a works council. An American-style works council. This is our joint vision. This is our dream. And right from the beginning, we were there with one team and one common goal: with Bob King with Dennis Williams and Gary Casteel from your side with Berthold Hueber from the Metalworkers Union in Germany and Bernd Osterloh, the president of the Global Works Council of Volkswagen.

But as things stand we're not on our own. We have lots and lots of brothers and sisters who help us so that this can work. Colleagues like Micah, Chuck, CJ, and Mitch. And of course I have my team to just mention a couple people here. Now brothers and sisters, for us this is all about co-determination. We want our colleagues to have a voice in the company. We want people to have a say in what is happening at their workplace. We do not want them to be individuals faced with management. We want them to be on an equal footing. And for this they need a strong union and they need a works council.

Co-determination has a long tradition at Volkswagen. Co-determination has become an important part of Volkswagen's corporate culture. And over all those years, co-determination has proven to be successful. With co-determination, colleagues do their bit towards the success of Volkswagen. Co-determination is also to the benefit of the people, and to the benefit of the company. In this way, workers at Volkswagen are not at the mercy of the interests of management. And thanks to co-determination, workers are being heard and respected, and this, brothers and sisters, shall become true in the United States, in Tennessee, in Chattanooga.

PATTA: Dear friends, for these reasons we have created a charter of labor relations. This charter was signed by us, the Global Group Works Council and it was signed by the group board of management. The charter is our foundation for the creation and the work of unions and works councils. With it, all employees at Volkswagen all over the world have the right to form a body to represent their interests on the shop floor. And it is a fact that at 105 production facilities in the world there are works council activities. In all of the countries, the conditions for the work of unions and works councils differ.

Still, together, with the national unions we have always managed a workers' representation of interests in the company being in line with national legislations, with cultures, and with traditions. The charter of labor relations is a model for co-determination in the entire Volkswagen world. And this is not just for Europe or South America. Even China and in India, even in Russia, we have unions and workers' representation in the Volkswagen factories. And this may sit clear: we're not alone at the Volkswagen Chattanooga site. The colleagues in the Global Group Works Council, our friends from Volkswagen all over the world look to Chattanooga. And moreover, we have the support of more than 600,000 workers all over the world. They are by no means indifferent to what happens to their American colleagues in Chattanooga.

Dear friends, right from the beginning we all knew that Volkswagen Chattanooga would not be a stroll in the park. We all knew that we would have fierce headwind. We knew we needed good reasons to be

convincing, and many talks to gain everyone's trust, which is why we the Global Group Works Council and our friends from UAW prepared everything very carefully. We had numerous meetings, we had lots and lots of discussions. We created all the preconditions for the voting, for the election amongst the workers in Chattanooga to be successful. And still, the election was lost by a very narrow margin.

PATTA: You all know the bare facts of what had happened. Now dear friends, brothers and sisters, Gary has said it: The election has been stolen from us. The people in Chattanooga were deprived of their chance to set up a works council, and to have a union... for now. What I have seen, what has happened in the days and weeks before the election period, in this small town of Chattanooga, is something that I personally have never seen in the twenty-five years in which I have done union work. The colleagues on the shop floor were hit with a barrage of anti-union propaganda, the likes of which I have never seen before. There were leaflets, there were billboards with vicious claims, newspaper articles, radio spots, press conferences. And it did not even stop before the family members, our friends and neighbors.

Dear friends, this was not the Volkswagen company being active here. Volkswagen behaved fairly in this election process and remained neutral. No, it was not the company. It was the conservative politicians in Tennessee and anti-union forces from the outside. They organized the campaign in front of the factory gates, costing millions of dollars. A campaign where you might have thought it was not about a democratic election, but about fighting an attacker from the outside. These conservative and anti-liberal forces toyed with the fears of people, with the fears of colleagues, with the fears of our brothers and sisters. The people who wanted to use their democratic rights were declared under ideological war. They were threatened. "If you vote for UAW, your jobs will be in danger. Or they will be gone." That's what they said. This was an election where fear was the issue.

In the end 626 people voted in favor of UAW, 712 against. Only 44 votes were missing to get a majority. 44 votes only. So, in the end, fear-mongering has won the election. Still brothers and sisters, despite all this and considering this massive and aggressive pressure from the outside, this result is more than just a decent result. And I would I would really like to praise the 626 brothers and sisters for their courage and their steadfastness. [Applause] Dear friends, Gary said it. We lost one battle, but we did not lose the entire fight, and we will not be beaten. I promise you, and I promise to the colleagues in Chattanooga, we will go on. [Applause] Because our dream is stronger than the resistance of our enemies. But let me say this... [Applause] Let me say this to our enemies: We will go on. And we will only rest once our colleagues, our brothers and sisters in Chattanooga have a union, have the UAW, and have co-determination.

Brothers and sisters, with your support, we will continue our fight for workers' representation. For a new majority, we have to start anew. Our vision of a dual model with a union with an American-style works council has to become reality in Chattanooga. We all know it is not enough to lay the blame on someone else's doorstep, to say that this is a problem simply because it's a certain part of your country, or simply express one's regrets. Those who don't do anything play into the hands of ill fate and allow the situation to persist. Those who act with courage recognize what is right and face up to reality.

PATTA: Brothers and sisters, the United States are one country. They have turned into one country because all of you and all of the people who came here had the same opportunities and had the same rights. And we cannot tell one part of the population that they and their children simply cannot have these opportunities or rights. We cannot accept this. And therefore, brothers and sisters, we will continue to fight for union rights in Chattanooga, from here and from Germany. And I'm sure that I can count on your support. [Applause] We want to create a model where UAW and the works council work together to the benefit of the people, the workers in the company. It will be the task of UAW as usual to negotiate good collective agreements on working conditions and, if necessary, to fight for them. The works council together with the workers regulates everyday life, qualification processes, et cetera.

Dear friends, we have a vision of the future. Our dual model of an American-style works council will spread to the entire south of the United States and maybe even to the whole of America. The works council is an innovation. It is innovative and significant far beyond Tennessee. It has the power to change American legislation, it has the power to improve and modernize legislation for workers. At the same time, our model will provide strength and respect to Volkswagen, to the people working there, and to the UAW. This is our vision, this is our dream, and it is well-worth fighting for it. I am firmly convinced that we will prevail. I am deeply convinced of this.

PATTA: Now, at the end what I would like to say is, I love the music of the American rock idol Bruce Springsteen. In one of his songs, he called it "Working on a Dream," he says, "I'm working on a dream, though sometimes it feels so far away. I'm working on a dream, I know it will be mine someday." Brothers and sisters, let us join forces and be working on our dream, so that it will be ours someday. Thank you.

Appendix 3, continued

Transcript of address to UAW 34th Constitutional Convention by IndustriAll President (and current acting chairman of Volkswagen supervisory board) Berthold Huber

June 2, 2014

HUBER: Dear colleagues, dear Bob, dear Dennis. It is for the IG Metall, IndustriAll, and myself a great honor that that UAW has awarded me with the Walter Reuther Social Justice Award. I thank you, I thank the UAW for this honor. I am deeply moved.

I know that important people and dignitaries received this award in the past. People like Eleanor Roosevelt, Rosa Parks, and Bob Kennedy and others who fought for civil rights, democracy, and social justice, and who accomplished a lot with their encouragement and work. This fight for the rights and the dignity of working people is never done, dear colleagues, and the accomplished goals are never secure on a continuing basis, but have to be always fought for by every generation anew. The history of human and civil rights movement and the union history demonstrate this fact. This fact is a visible reality of our world today in which a globally-acting financial capitalism tries to assert its interest and profit without care for the life, health, wellbeing, and needs of the people. Everywhere, on our only world, people are still forced to work under deplorable, inhuman conditions. Let me give you two examples.

HUBER: One year ago, a dilapidated manufacturing plant collapsed in Bangladesh. Over one thousand seamstresses paid with their lives for the greed for profit of their company. A few weeks ago, more than three hundred miners died in Turkey during a fire underground. The owners knew about the safety problems for a long time, and in both cases so did the government authorities. With this knowledge they are likewise responsible for the deaths of the workers. Everyday, millions of people are forced to work under such conditions. It is our joint duty and responsibility, dear colleagues, to protest against such conditions, and support one another in our fight for employee rights.

Capitalism, driven by financial markets, has run the world into a fundamental crisis at the end of the last decade. The bankruptcy of Lehman Brothers marks the beginning of this crisis. Governments were forced to save the banks with billions in order to avoid the collapse of the economy. Nevertheless, financial speculation is still on-going, with the result that the rich are still getting rich and richer, the middle class is eroding, and the poor are getting even more poor. The global inequality has reached, dear colleagues, an obscene dimension.

During the crisis, unemployment has risen sharply among the developed nations, in North America and in Europe. And especially young people are affected heavily by it. In the meantime, youth unemployment has risen 50% in the south of Europe. Worldwide, dear colleagues, precarious work is on the rise. It is the trend that places of employment that are collectively-bargained and that have secure labor agreements have become the exception, also in manufacturing. Therefore our goals remain that every person has a right for work, that every person can make a decent living with his or her work, that

the principle of equal pay for equal work is followed, that satisfactory working conditions exist, and that everyone is protected from unemployment.

HUBER: In order to accomplish these goals, we need a new way of doing politics, and an economy that has the wellbeing of the people as a target, and not the profit of a few. In order to reach these goals, we need to expand our union strength. Our power, and our assertive new growth from the number and the engagement of our members. The same principle still applies: Only united are we strong.

With the globalization, we experience very close how quickly unions reach their national borders. We experience this fact at the multinationals of the automotive industry on a daily basis. And for that reason, dear colleagues, unions have to cooperate and collaborate closer and better with one another. It cannot concern us under what conditions the workers work in other countries. Sooner or later, it will have an impact on us. Therefore, let us increase our efforts toward the setup of a worldwide union network, and global workers and employee representation.

HUBER: After World War II and the Nazi dictatorship, your union helped the German unions to establish structures with a strong representation of interests in a new democracy. And we were, and are, grateful for that, and thank you. Today, the IG Metall and IndustriAll support the UAW in its fight for the rights of workers, and their unionization, especially in the south of the USA, as for example at Daimler at Tuscaloosa, and Volkswagen in Chattanooga. In doing so, we had to learn that the right to unionize is not observed nor protected as a democratic right of each citizen there.

This massive campaign of lobby groups and politicians close to the Tea Party was downright shocking to us. We experienced firsthand that these people do not feel or see an obligation towards the workforce, but instead towards those who fund them and their desire to get money. They want to attract investors with low wages, high subventions, and without a union. They are only thinking about their own interests. Also, from an economic perspective, this is a very short-sighted view. A sustainable, and long-lasting economy needs well-qualified employees. It needs good work, and good jobs. And for employees an income with which they and their families can make a living. It requires a good and solid education for their children. I am certain. The automotive industry in America will have a good future only if the employees have good prospects.

HUBER: Dear colleagues, let us also fight tomorrow, together and in solidarity, for human rights, democracy and the respect for work. I thank you very much, and the UAW, and wish you a successful convention.