Institutional Environments, Employer Practices, and States in Liberal Market Economies

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This article draws on the new institutionalism in economics, sociology, and political studies in order to establish a foundation for analyzing how states shape employer human resource management and union relations. It then reviews and extends the available literature on this topic, establishing how, in addition to legal regulation, states help to shape the cognitive and normative rules that undergird employer decision processes, the social and economic environment within which employers act, and ultimately, the relations of authority constituting the employment relation itself and hence employer policy orientations. The article concludes with a discussion of the prospects for state policy initiatives in view of established employer paradigms, institutional logics, and state traditions, and identifies possibilities for further work in this area.

A neoclassical world would be a jungle, and no society would be viable.
Douglass North (1981:11)

ALTHOUGH STATES ALWAYS HAVE BEEN CONSIDERED KEY ACTORS IN INDUSTRIAL RELATIONS (e.g., Dunlop 1958), analysis of their role traditionally has focused on how labor law and, to a lesser extent, economic

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From the Editor: Several years ago, the editors encouraged submissions of review articles on a competitive basis in the belief that such articles help keep readers abreast with the fast-growing literature in industrial relations. This paper is one of those articles.

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policy shape labor organizations and collective-bargaining processes (e.g., Tomlins 1985; Forbath 1991; Adams 1992, 1993a; Dubofsky 1994; Browne 1997). This focus has begun to shift in recent years as scholars have concerned themselves with how employment law affects employer practices (e.g., Kaufman 1997) and sought ways to encourage the diffusion of practices associated with the high-performance paradigm (e.g., Levine 1995; Pfeffer 1998). To date, however, analysis of the role of states in shaping employer practices has tended to be fragmented, dispersed across a number of disciplines and research areas.

In this article I review and attempt to build on the literature addressing how states shape employer practices. To frame the discussion, I draw on the new institutionalism in economics, sociology, and political studies, emphasizing the institutional environments within which employers act and argue that states are deeply implicated in both shaping and sustaining these environments. I argue that in addition to legal regulation, states help to shape the cognitive and normative rules that undergird employer decision processes, the broader economic and social context within which employers act, and ultimately, the relations of authority constituting the employment relation itself, with important implications for employer orientations and practices.

I have three main objectives. The first and primary objective is to establish the role played by states in shaping employer practices and, in particular, how this role can and does extend beyond traditional regulatory approaches. In so doing, I build on recent work calling for a more state-centred approach to understanding employer practices (Godard and Delaney 2000). The second objective is to establish a foundation for more systematic (and comparative) analysis of how states perform this role. Although it cannot be attempted here, such analysis is important to developing a full understanding of how states shape employer practices and how state influence varies across nations and over time. The third objective is to establish a basis for more thorough analysis of state policy alternatives and, in particular, for the more effective design and implementation of these alternatives. Only by addressing the nature of, and interrelations between alternative means of state influence, is it possible to design effective policy options or to develop new policy paradigms.

Focus is on two areas central to the field of industrial relations: employer policies and practices toward unions and collective bargaining, and employer human resource policies and practices, especially work organization and employment practices believed to generate high quality, high skill jobs. The latter practices include high levels of worker autonomy and group work, consultation and information sharing systems, job security, training and skill-development opportunities, high pay and benefits, family-friendly policies,

and others. They are commonly associated with what has variously been referred to as the *high-commitment, high-involvement*, or *high-performance* model (Kochan and Osterman 1994, Levine 1995; Pfeffer 1998; Wood 1999), although whether this model can be equated with high-quality, high-skill jobs may depend on the specific practices implemented and how they are implemented (Godard and Delaney 2000; Godard 2001a).

This article also concentrates on the role of states in liberal market economies (King and Wood 1999), specifically the United States, Canada, and Great Britain.[1] Although differences between them should not be underestimated, these three nations are all regularly categorized as representing the Anglo-American model, both institutionally (Esping-Andersen 1990, 1999) and culturally (Hofstede 1980), and all three have broadly similar industrial relations systems and human resources management traditions. Thus they can be said to represent close pairs (Strauss 1998), allowing a greater likelihood that state policies in one may be relevant or generalizable in some form to another. This reduces issues of policy transferability across nations (e.g., Frege 1999; Soskice 1997).

Because this article focuses on employer practices in liberal market economies, it does not address broader debates over the future of welfare capitalism (see Esping-Andersen 1999; Stephens, Huber, and Ray 1999) or corporatist political systems (see Streeck 1997). It also does not address related debates over the implications of globalization for state autonomy and whether there is a necessary convergence to a single, most efficient model (e.g., see Whitley 1999; Hirst and Thompson 1999). Following from the new institutionalism and recent comparative analyses (especially Freeman 2000; also Kitschelt et al. 1999; Whitley 1999), I instead adopt the position that no single policy or set of policies is inherently superior to all others. Although states' capacities for governance may have changed in important respects in recent decades (see Held et al. 1999:436–52) and tradeoffs between efficiency and equity outcomes may (or may not) have increased (Godard 2000:442–66), states continue to confront an array of feasible policy alternatives (see Scharpf 1997, 1999; Garrett 1998; Hirst and Thompson 1999:190; Held et al. 1999:441). Indeed, the changes believed to constrain these alternatives are themselves partly the creation of state policies, albeit often through international agreements.

[1] I therefore do not attempt to address the literature on the role of the state in developing economies (e.g., Kuruvilla 1996; Deyo 1997; Cook 1998) or in so-called corporatist or coordinated market economies (e.g., Crouch and Streeck 1997; Visser and Hemerijck 1997) beyond reference to institutions associated with the latter of possible relevance to liberal market economies. I also exclude New Zealand and Australia, both of which until recently have had centralized wage regulation and do not fit easily into the liberal market economy category (see Stephens, Huber, and Ray 1999:181–3).

Consistent with this position, state policies are considered to reflect not economic forces per se but rather the political structures, policy traditions, social norms, and power relations forming the political and institutional context within which these and other forces are addressed and the strategies and actions of interested parties within this context (see, e.g., Campbell and Lindberg 1990:638; Scharpf 1997, 1999; Visser and Hemerijck 1997:49–62; Wailes 2000). Moreover, although employers may be able to exert considerable, even inordinate, influence on state choices (Fligstein 1996; Laumann and Knoke 1987), especially labor and social legislation (see McCammon 1994; Jacobs 1998, 1999), the extent of this influence depends on state structures and traditions, the issues at hand, public opinion, and the mobilization capacity and effectiveness of other groups (e.g., labor) (Martin 1989; Vogel 1989; Prechel 1990). Thus, although it would be a mistake to underestimate the importance of broader economic forces or of employer influences, the importance of each tends to be variable and indeterminate, allowing for substantial variation in state policy choices.

In short, this article is premised on the belief that the problem is not so much one of whether viable alternatives exist or states have choices as it is one of how to identify, design, and implement alternative policies in ways that minimize any tradeoffs between "efficiency" and "equity" given state capacities and opportunities.

Finally, although focus is primarily at the level of the nation-state, I avoid use of the singular form. There are three reasons for this. First, nation-states are multilayered, characterized by a hierarchy of semiautonomous governing authorities (e.g., federal, state, and municipal), each of which is capable of shaping what employers do. Second, nation-states often act jointly through international agreements. These agreements can have direct implications for what employers do and indirect implications through their consequences for subsequent policy alternatives. Third, the actions of individual states may spill over into other jurisdictions, also with direct and indirect implications. In short, more than one state or state authority may be implicated in shaping employer practice.

Institutional Environments and States

Analysis of the role of states calls for an institutional perspective in the study of industrial relations, one that entails a return not to the empiricist "thick description" that came to be associated with institutionalism in the postwar era but rather a more analytical, theoretically informed approach that builds on, yet goes beyond, the best work of earlier institutionalists (e.g.,

Commons 1931; see also Van de Ven 1993; Jacoby 1990). To this end, it is useful to draw on the "new institutionalism" in economics, sociology, and political studies (see, respectively, North 1990; Scott 1995; Goodin 1996).

There are important cross-disciplinary differences in the new institutionalist literature. For example, in economics, the tendency has been to adopt what Edelman and Suchman (1997:482) have referred to as a "rational materialist perspective," focusing on the incentive structures to which organizations are subject (e.g., North 1990:6–9). In sociology, there has been greater tendency to adopt what researchers refer to as a "normative cultural" perspective, focusing on how institutionalized cognitive and normative rules shape managerial decisions (DiMaggio and Powell 1983). In political studies, the tendency has been to adopt what can be referred to as a "constructionist" perspective, focusing on the importance of institutions for shaping or even constructing the interests, power, and ultimately orientations of actors (Ruggie 1998; Thelen and Steinmo 1992; Krasner 1988:73).

Despite these differences in emphasis, all three bodies of literature have in common their concern with the rules and rights comprising the broader institutional environments within which employers act. These may be promulgated formally in the form of incentives or regulations, as emphasized in economics. They may be informal, residing, for example, in taken-for-granted beliefs, knowledge, or norms, as emphasized in sociology. Or they may entail more fundamental and often taken-for-granted rights and hence power relations, as emphasized in political studies. Yet, by adopting different emphases, each of these streams contributes to a broader understanding than otherwise of the importance of institutions. As such, they may be viewed as more complementary than contradictory to one another (also see Scott 1995:33–61; Goodin 1996; Edelman and Suchman 1997; Immergut 1998).

The essential underlying implication of all three streams for understanding what employers do is that actors do not behave in an institutional vacuum but are instead part of a broader community of actors subject to (and constitutive of) institutionalized rules and traditions. The question is not, therefore, how employers seek to rationally achieve goals per se, but rather why they have the goals they appear to have, the role of rules (broadly defined) in shaping how one course of action comes to be viewed as more rational to the attainment of these goals than another, and how, indeed, what is rational comes to be defined. Institutions do not just constrain and facilitate employer behavior; they also shape cognitions and orientations constituting behavior itself (see Scott 1995:43).

States are heavily implicated in this respect (also see Scott 1995:93–5). Most evident, states promulgate institutional rules, norms, and incentives

that are intended to regulate directly what employers do. But states also embody institutional structures consisting of broader economic, social, and cultural policy mandates. Thus states shape and condition what employers do not only directly, through regulatory action, but also indirectly, through the application of rules (i.e., policy mandates) that structure the broader economic and cultural environment in which employers act. Finally, states establish and reinforce institutional rights that constitute and shape the employment relation as a relation of authority and the institutions associated with it. Thus it is useful to distinguish between three components of the institutional environment through which states shape employer practices: the regulatory, the socioeconomic, and the constitutive [see Edelman and Suchman (1997) for a similar categorization[2]].

The implications of state policies for what employers do need not be by design (intended consequences) but instead can be by accident (unintended consequences) or simply by default (failure to act). More important, the three components of the institutional environment are interrelated, and a particular action, policy, or law may have implications for more than one of them. For analytical purposes, however, they may be considered separately. In doing so, I also identify the major implication associated with each in propositional form. Although meant to be largely suggestive, these propositions may serve as general rules or guidelines for subsequent work in this area.

The Regulatory Environment

Legal regulation continues to be the main policy instrument studied by industrial relations scholars and economists (e.g., Kaufman 1997). While focus traditionally has been on the content of the law, in recent years there has been a growing focus on monitoring and enforcement based largely on a rational materialist view. Accompanying this shift has been an increasing criticism of traditional forms of regulation. However, there has been a

[2]Edelman and Suchman (1997) review the literature on the legal environments of organizations. Though I was unaware of their article until this article was in the revision stage, it bears striking similarities. They distinguish between materialist and cultural normative perspectives, a distinction made in early versions of this article but using different terminology. They also identify three legal environments: the facilitative, the regulatory, and the constitutive. This article also addresses the latter two of these environments, and uses the same terms prior to my coming across their article. The only difference is that this article, because it addresses a somewhat different question, defines the regulative environment more broadly, to include their facilitative environment and also considers the implications of the state for the socioeconomic environment. Note that I differ from French regulation theorists (e.g., Aglietta 1979), who include virtually all state influence under the term *regulation*.

tendency to downplay or even ignore the importance of cognitive and normative rules for shaping employer practices both in general and in response to traditional legal regulations. Because of this, and because it has received extensive attention elsewhere (Kaufman 1997), I address the rational materialist view only briefly. Instead, I draw on the distinction between this view and the normative cultural view on regulation, establishing the possible value of the latter to regulation, the relationship between legal regulation and cognitive/normative rules, and the possible utility of unintended effects for the attainment of policy objectives. In so doing, I seek to establish possible alternatives to the rational materialist approach to regulation.

The Rational Materialist Approach. Under the rational materialist approach, employer conformity to legal regulations is assumed to be based primarily on calculation of the benefits relative to the costs of obeying these regulations. Thus the problem is not just one of establishing rules of the game but also one of ensuring that it is in the economic interests of employers to follow these rules. Increasingly, however, many scholars adopting this view have come to view traditional forms of regulation as of limited effectiveness. Intensive monitoring by state agencies and stronger penalties for violations of the law often are criticized for both their costs and lack of flexibility. In addition, these forms of regulation often are highly ambiguous and riddled with loopholes, often allowing for noncompliance, subversion, and evasion (Kagan and Scholz 1983; Edelman and Suchman 1997:487). There is also considerable uncertainty over how regulations are likely to be applied, with much depending on how they are interpreted by "experts" within the judiciary, the legal community, and employer organizations (Edelman, Abraham, and Erlanger 1992). Finally, there is the matter of unintended consequences, as returned to later.

Criticisms of traditional legal regulation may be overstated. This is most dramatically illustrated with respect to labor laws regulating employer behavior. Although these laws increasingly have been viewed as ineffectual in the United States, they continue to be viewed as effective in Canada and are credited with explaining substantially higher levels of union organizing success and density in that country (R. Block 1994, 1997; Wood and Godard 1999:213–22; Godard 2001b), despite little difference in the level of public support for unions (Lipset and Meltz 1998).[3] It is possible that the

[3]Union density in Canada remained more than double that in the United States in the 1980s and 1990s. The main reason for this difference appears to have been provisions in Canada for card certification, highly restricted rights of employer appeal, first contract arbitration, and a ban on permanent striker replacements (Wood and Godard 1999).

lower effectiveness of the U.S. system in part reflects the ability of employers to influence lawmakers so that regulations are difficult to enforce (see Edelman and Suchman 1997:489). In Canada and Great Britain, both of which have parliamentary systems and parties associated with organized labor, employer influence historically has varied substantially depending on the party forming the government, possibly providing windows through which stronger laws can be enacted (Meltz 1989; Bruce 1989). In any case, Canadian-U.S. differences in labor law effectiveness suggest that ineffective regulations may reflect problems of design rather than limits to regulation itself. Despite this possibility, however, changes in the economic and political environment appear to have rendered traditional legal reforms less viable as a means of regulating employer practices in industrial relations and human resources management. A number of alternative approaches have been proposed.

One alternative is to design incentive structures that induce employers to act in accordance with policy goals. Examples include the use of risk-based premiums under health and safety law (Burton and Chelius 1997:274–80) and the use of training subsidies designed to reduce employer losses from employee opportunism (i.e., quitting once training is complete) and employer poaching. In effect, these and similar options have the appeal that they rechannel market behavior rather than constraining it, thereby "reco-ordinating markets around socially preferred equilibria" (Dow 1997:77). This is consistent with the new institutionalism in economics and suggests a supplanting of legal regulations with economic incentive structures. However, proponents have yet to develop it as a general approach for regulating employer practices.

A number of additional alternatives have been suggested. For example, Richard Edwards (1993, 1997) has argued for the provision of "choosing rights," under which employers are required to issue employee handbooks containing guaranteed rights for employees either by choosing one of several prototypes drafted by a state commission or negotiating one with employees. David Levine (1977) has argued for "conditional deregulation," under which employers would be freed from regulatory restrictions provided that they establish their own systems for achieving regulatory goals and that employees collectively approve and monitor this system. Finally, suggestions have come from a variety of authors and from the Dunlop Commission (Commission on the Future of Worker-Management Relations 1994) to reduce the need for direct state monitoring of employer compliance with statutory regulations by mandating employee committees to perform this role. These options generally are advocated on the grounds that they allow for greater flexibility and are less cumbersome and costly

than are traditional state monitoring processes, an argument long central to the case for free collective bargaining. Despite their potential, however, they all tend to adhere to a rational materialist approach and hence may underestimate the importance of cognitive and normative factors.

The Normative Cultural Approach. Under the normative cultural approach, states attempt to shape cognitive and normative rules that guide employer behavior and hence employer beliefs about what constitutes rational and desirable behavior. Although there has been little research into the effectiveness of this approach, it is has been a primary means advanced to enhance diffusion of high-performance work practices in the belief that these practices are consistent with employer interests but that employers lack either the necessary norms or the expertise or the support required to implement them on their own (Kochan and Osterman 1994:210–2). For example, in the United States, the Office for the American Workplace was established within the Department of Labor in 1993 to provide assistance in the implementation of new forms of work organization, although it became a victim of cutbacks 3 years later. The Baldrige Award was established in 1988 to create a normative environment in which employers adopting quality management practices associated with the high-performance model could receive national recognition (e.g., see Pfeffer 1994:205–21).[4]

This approach, however, need not be restricted to high-performance practices per se. In Great Britain there has been a long history of government agencies promulgating codes of practice (most notably with respect to appropriate disciplinary procedures) and diffusing these through seminars and training sessions (Gennard and Judge 1997:175–9). The government also grants an ''Investors in People'' certification, along the lines of an International Standards Organization (ISO) quality accreditation, to employers meeting certain training standards (see Pfeffer 1998:286). Both of these are intended to induce employers to adopt good practice through a combination of education and exhortation. As a further example, the Women's Bureau of the U.S. government has established an ''honor roll'' of employers who have taken measures to improve the working lives of women substantially (Spalter 2000).

Government attempts to shape cognitive and normative rules also may be backed up by various rewards and penalties or by a threat of legal regulation. For example, Baron, Dobbing, and Jennings (1986) show how U.S. federal government intrusions into the labor market during World

[4]Although only about 15 percent of the criteria for the award involve human resource practices, most winners appear to pay considerable attention to these practices (Appelbaum and Batt 1994:130–1).

War II, including the imposition of guidelines for federal contractors concerning work arrangements and working conditions, served as a major impetus for the institutionalization of bureaucratic personnel practices in large firms and their subsequent diffusion to small employers. Stark (1980:110) has made a similar argument with respect to the diffusion of scientific management during World War I.

With respect to collective bargaining, Adams and Markey (1997) argue that government normative support and pressures, rather than labor law per se, represent the main explanation for union growth in the United States during the 1940s. In Great Britain, government normative support for collective bargaining is often credited for union density levels of approximately 57 percent by the late 1970s, despite a lack of effective statutory protections (see Davies and Freedland 1983; Adams 1994; Howell 1995:164; Pencavel 2000; Katz and Darbishire 2000:71–2). Prior to the Thatcher era, government policies included encouraging public-sector workers to engage in collective bargaining, requiring government suppliers to respect the right of workers to collective bargaining, and intervening directly in disputes by pressuring intransigent employers to recognize unions (Adams 1993a:295).

The Normative Cultural Approach and Legal Regulation. Scholars assuming a rational materialist view of employers also tend to overlook the importance of cognitive and normative rules for shaping employer responses to both traditional and nontraditional forms of regulation (e.g., Commons 1931; Weber 1968; Stryker 1994). Institutional organizational theory suggests, however, that regulations may be followed not because of the costs associated with failing to do so but rather because employers view them as legitimate and even internalize the policy goals from which they arise. Under a normative cultural perspective, legal regulations represent "a system of moral principles, scripted roles, and symbols" (Edelman and Suchman 1997:482) in which states define what is or is not appropriate and hence morally sanction or legitimate particular behaviors. As Forbath (1991) has argued, for example, changes in law and judicial decisions applying this law may function symbolically as much as instrumentally, especially if they are accompanied by symbolic language and rhetoric.

Institutional organization theory also suggests that even where legal rules are not internalized initially by employers, they may be obeyed to the extent that there are normative pressures to do so in the employer's environment (DiMaggio and Powell 1983). These pressures may come from the public in general, from customers, or from workers themselves through their implications for the perceived legitimacy of various managerial actions. The result may be to alter employer cost-benefit calculations but also to

eventually induce employers to alter their conceptions of legitimate behavior, in both cases enhancing compliance to a law not justified on the basis of state sanctions alone. However, the extent to which this occurs may vary depending on considerations associated with employer visibility and legitimacy needs, such as organizational size and whether the employer is in the public sector (Dobbin et al. 1988).

Much also may depend on the cognitive rules that develop over time as employers develop, experiment with, and adopt specific strategies for responding to regulations (Fligstein 1990; Guthrie and Roth 1999). In this regard, the effects of legal regulation may be gradual, depending on the rate at which cognitive and normative rules associated with them become institutionalized in employer practice, as several researchers have observed, for the diffusion of equal employment opportunity practices and the spread of workplace due-process protections in the United States (see Edelman and Suchman 1997:498).

Just as legal regulations may shape cognitive and normative rules, preexisting cognitive and normative rules are likely to have implications for the effectiveness of these regulations. For example, there is evidence indicating that Canadians are more supportive of government intervention than are their U.S. counterparts (see Lipset and Meltz 1998), tending to support claims that U.S. employers are exceptional in their antistatism (e.g., S. Jacoby 1991). If so, employers in the United States may be more resistant to direct regulation than their Canadian counterparts, providing a further explanation for why, in the United States, labor laws appear to be weaker (Wood and Godard 1999) and resistance to them greater (Logan 2001). In this regard, employer norms may play an important role in how states design regulations either in recognition that congruence with these norms is likely to minimize resistance or because employers are able to impose substantial political costs if such accommodation does not occur.

State attempts to regulate employer practices in industrial relations and human resources management are likely to be more effective not only to the extent that they are consistent with preexisting cognitive/normative rules but also to the extent that they are designed and implemented in conjunction with processes conducive to these rules and accompanied by a deliberate strategy to reshape them. Under such conditions, the law may function as much through its implications for expectations and norms as for the specific rights and regulations it embodies (see Hyde 1994). This is generally consistent with a "reflexive law" approach, under which the function of law changes from "an authoritative instrument of control into a facilitative instrument for mutual recognition of self-regulation" (Rogowski 1994:90).

The current British experiment with statutory recognition laws (Wood and Godard 1999; Godard and Wood 2000) would appear to exemplify such an approach, for it attempts to build on a history of voluntary recognition by providing unions with only weak collective-bargaining rights and power while encouraging employers and unions to negotiate their own recognition agreements. In Prime Minister Blair's words, it is based on the premise that "a change in law can reflect a new culture, can enhance its understanding and support its development," and it is intended to "change the culture of relations at work" through "the promotion of partnership" (DTI 1998:3). The likely effectiveness of this strategy is uncertain (Wood and Godard 1999; Smith and Morton 2001), and it falls far short of ensuring that workers will be able to obtain meaningful representation in the face of employer resistance (Wood and Godard 1999). It may be, as Hyde (1994:176) has argued, that reflexive law approaches tend to be most used in industrial relations when "capital is strong and labor weak" so that only "enfeebled legislation" is possible politically. Nonetheless, this approach is of value because it allows for the dynamic interplay between legal rules and cognitive and normative ones and attempts to shape both. There is also some evidence that it has helped to shift employer attitudes toward greater approval of labor unions (Oxenbridge et al. 2001).

Implication: *When attempting to regulate employer actions, there is a need to explicitly account for and attempt to shape the interplay between legal regulations and incentives on the one hand and cognitive and normative rules on the other.*

Unintended Consequences: Problems or Opportunities? As noted earlier, so-called unintended consequences[5] often are considered a major problem with legal regulation, with many viewing regulations as more harmful than helpful as a result. Yet this need not be the case. These consequences can be consistent with policy objectives, providing yet a further alternative to traditional approaches to regulation.

The harmful view has been especially prevalent in the economics and law literature (Schwab 1997:111). This literature generally argues that profit-maximizing employers will respond to the costs of a mandatory term of employment (e.g., safety standards) by lowering wages accord-

[5]The term *unintended* can be misleading because there is no way of knowing the exact intentions of policymakers, and if so-called unintended effects are figured into a policy decision, they are no longer unintended. A better term might be *side effects*. But because the term *unintended* effects is used so widely, I continue to use it but will preface it with *formally* so that it does not preclude informal or unofficial intentions.

ingly over time and that this is less efficient than if the parties are left to bargain over such tradeoffs on their own (Willborn 1988; Wachter 1995; Dertouzos and Karoly 1992). However, concern for unintended effects is not restricted to this literature. Cappelli et al. (1997:5) argue that the growth in contingent employment in the United States is attributable in part to legislation such as the Fair Labor Standards Act because this legislation applies to permanent, full-time employment and hence provides incentives for employers to rely more heavily than otherwise on part-time and temporary employees. In a separate analysis, Cappelli (1996:23) also argues that youth apprenticeship subsidies offered by the British government induced employers to replace high-skilled with low-skilled jobs.

Although the harmful view of formally unintended consequences has tended to imply an antistate bias, this need not be the case. For example, Adams (1993b, 1995) has argued that the Wagner model creates a situation where unionization is viewed as an attack on the employer, thus fostering a hostile normative reaction and ultimately making it more rather than less difficult for employees to gain recognition. Yet his solution is not to eliminate regulation but rather to establish a more comprehensive set of institutions to ensure worker representation rights. A similar argument also has long been a concern with respect to health and safety laws (Commons and Andrews 1936; see Burton and Chelius 1997:275). Again, however, scholars have tended to view the problem as one of institutional design rather than as one of regulation per se.

More important, there is reason to believe that formally unintended consequences often are not as great as predicted by economic theory, as the "new economics" of the minimum wage suggests (Card and Krueger 1995), and may depend in considerable measure on policy design and implementation (Godard 2001c). Indeed, formally unintended consequences can be positive and therefore may serve as opportunities rather than problems by providing indirect means to achieve policy objectives. In an era when extensive state regulation is not feasible politically, they may represent a particularly innovative way to shape employer behavior without a high degree of direct state involvement.

As an example, it is possible to extend the union "shock effect" first identified by Slichter, Healy, and Livernash (1960) to argue that the extent to which unions induce productivity-enhancing measures by employers is likely to depend not just on union presence but also on union bargaining strength, as determined in considerable measure by bargaining laws (e.g., no replacement workers). Strong organizing laws (e.g., card certification, first contract arbitration) also may increase the likelihood of nonunion

employers opting for a high-commitment strategy because unions are a greater threat and a coercive approach to union avoidance is less viable. A similar argument has been made for the survival and effectiveness of high-commitment practices in union firms. Although the mere presence of a union may matter (Eaton and Voos 1992, 1994; Marshall 1992; Cooke 1994), much may depend on the extent to which labor laws facilitate strong unions because strong unions are more able to ensure that worker interests are incorporated within the design process and hence that new forms of work organization are of the high-skill variety associated with the "high road" (Form 1995; Gorz 1999:32–5). Finally, and of particular note, is Streeck's work (1992, 1997) suggesting that the high cost environment caused by industry-wide bargaining and strong employment laws provides a major explanation for the development of Germany's system of "diversified quality production," characterized by high-skill, high-quality work. Similar arguments have been advanced with respect to the minimum wage, although support for them has been mixed (Edwards and Gilman 1999:27–30; Edwards et al. 2000).

Institutional research in sociology suggests that legal regulations also can have catalytic effects, indirectly helping to create a normative environment conducive to broader policy objectives. Based on the results of an event-history analysis of two diverse samples of employers, Dobbin and colleagues (Dobbin et al. 1988, 1993; Edelman 1990) conclude that the expansion of nonunion grievance mechanisms in the 1970s and 1980s in the United States can be attributed largely to the tendency for civil rights mandates to create an expectation of due process and equitable treatment that, if not factored into employer decisions, could result in internal morale and external reputational costs. In addition, Sutton et al. (1994:967) conclude that the growth of legal constraints on employers during the 1960s and 1970s and the uncertainties it created induced employers to adopt more legalistic processes internally and that this could lead eventually to the development of a new employment relations regime involving lifetime employment, career-development training, and the like. This is consistent with earlier work by Selznick (1969:51–2, 67–8), who argued that legalization could result in employees taking on a "protectable status" similar to citizenship.

Implication: *While direct state intervention can have indirect consequences, such consequences need not be negative and may form an alternative basis for policy development. Even more important, state intervention can have positive implications beyond those which are formally intended so that there is a catalytic effect.*

The Socioeconomic Environment

A further and traditionally often overlooked means by which states shape employer practices is through the socioeconomic environment. States consist of institutional structures representing a series of broader economic, social, and cultural policy mandates embedded in state agencies and organizations. The exercise of these broader mandates may or may not be intended to shape what employers do in industrial relations (although this is rarely a formally announced intention), but they typically have this effect indirectly, through their implications for the broader socioeconomic environment of employers. Although states may shape a number of aspects of this context, three would appear to be most important: (1) the economic and financial constraints to which employers are subject, (2) labor market conditions, and (3) the broader normative cultural context.

Economic and Financial Constraints and the Problem of "Short-Termism." State policies may shape what employers do through their implications for economic pressures and opportunities to which they are subject. Most notable in this respect are trade policies, which affect both the intensity of competition and opportunities for market expansion. However, policies altering the level of economic activity (e.g., monetary and fiscal policies) also can affect the level of competitive pressure to which employers are subject, particularly with respect to whether they are in growing or contracting markets. Also of relevance are exchange rates which reflect macroeconomic policies for if these are high relative to other currencies, the level of economic pressure may be intensified in part because labor costs are comparatively higher. Conversely, if they are low, employers may be sheltered from this pressure in part because their labor costs are relatively lower. In recent years, the former has been a particular problem in Great Britain, and the latter has been the case in Canada.

Under conventional economic theory, the economic pressures generated by macroeconomic policies are believed to have a disciplinary function: limiting employer willingness to grant more favorable terms and conditions of employment while at the same time inducing employers to engage in continuous search for productivity-enhancing technologies and organizational practices. However, evidence that the latter is the case is limited (Glynn and Gospel 1993:122). It is also possible that this function is instead manifest through short-termism, with employers adopting policies directed at short-term cost minimization and work intensification and forsaking the kind of long-term policy commitments associated with a well-trained, experienced, and loyal workforce (e.g.,

Soskice 1990; Hutton 1995; Gospel and Pendleton 2000). Thus, consistent with Schumpeter's (1950) discussion of the relation between monopoly and innovation, state policies that intensify competitive pressures may lead to low-quality, low-skill practices rather than the high-quality, high-skill practices advocated by many industrial relations and human resources management scholars. It is likely that much depends on other aspects of the socioeconomic environment, as well as the regulatory and constitutive environments.

State policies also may heighten the problem of short-termism if they foster risk and uncertainty (Corry 1997). Mitchell and Zaidi (1997) argue that flexible exchange rates, deregulation of domestic markets, and promotion of new technologies may all enhance risk and uncertainty, inducing employers to turn to more flexible employment policies, where they hire employees on a contingent rather than a permanent basis. They also may induce employers to adopt a short-term view toward their employees, investing less in training and providing lower job security for even their permanent employees.

In addition, Doremus et al. (1998:22–51) show how state polices have shaped financial markets and the principal-agent relation between managers and owners,[6] both of which are believed to have important implications for employer orientations (Berglof 1990; Porter 1992; Roe 1994; Hutton 1995; Gospel and Pendleton 2000). In contrast to their German and Japanese counterparts, state policies in the United States, Great Britain, and Canada have created an environment in which firms are controlled primarily by stock market investors and in which these investors have in recent decades increasingly come to consist of pension, insurance, trust, and mutual funds. It is argued that because of competition between fund managers and their legal fiduciary duties, fund managers have been placing substantially greater pressure on employers not only to maximize returns but also to do so over the short term (Gospel and Pendleton 2000). Moreover, fund managers often have limited knowledge of firms in which they invest and so are unable to value investments in human resources, which are difficult to measure and have longer-term paybacks (Blair 1995). They also undervalue the potential long-term benefits that accrue to positive relations between unions and management (Gospel and Pendleton 2000:15). As a result, employers tend to adopt a short-term orientation, as reflected in higher layoffs, lower worker pay levels, lower investment in training, and ultimately, lower levels of firm-

[6]They cite a number of acts that have reinforced the shareholder model in the United States. Most noteworthy are laws restricting the power and ownership capacity of banks. In contrast, an absence of such restrictions in Germany has enabled banks to play a major role in firm governance.

specific skills. They are also less willing to accommodate unions, especially if this means increased costs over the short term or a reduced speed at which they can adjust to market developments (Gospel and Pendleton 2000:14).

Labor Market Conditions. State policies also shape employer practices through their implications for labor markets. In addition to their implications for economic constraints, tight monetary policies affect unemployment and hence both the ease with which employers can attract and retain qualified employees and wages and working conditions. Unemployment also may have implications for training and skill levels, again through their implications for labor market conditions. Glynn and Gospel (1993) conclude that low skill levels in an economy may reflect a demand-side rather than a supply-side problem. They argue that tight labor markets historically have been associated with improvements in workforce quality and productivity in Great Britain because employers have a greater incentive to efficiently use labor and to reward human capital investments of workers. Along similar lines, Jacoby (1999) argues that in the United States the tight labor markets of the 1990s induced employers to reintroduce career ladders and strengthen internal training and development programs.

From a normative cultural perspective, unemployment also can be viewed as serving as a disciplinary device that renders employees more compliant, as economist Michal Kalecki (1943, cited in Jacoby 1999) first observed in the 1940s. This can have implications not only for wage and benefit expectations (Blanchflower 1991) but also for managerial strategies. Where employees are easy to replace, have low mobility, and are fearful of job loss, employers may have far less incentive to adopt so-called high-commitment policies because employee loyalty is already at a satisfactory level and various behavioral problems (including quits) are minimal. Under these conditions, employers adopt more casualized low-commitment policies, in which market risks are shifted onto employees, because employees have little alternative but to accept what is offered them and little expectation of the employer. According to Jacoby (1999), this provides a better explanation for observed changes in employer practices in the 1980s and early 1990s than do structural secular developments.

These effects may be especially strong where a state has failed to enact or has cut back on social and labor market programs designed to minimize the costs of job loss (Burawoy 1985:126). In effect, the creation of coercive labor markets through a combination of high unemployment and weak support programs effectively solves the problem of control for employers, rendering more expensive high-performance policies unnecessary, as appears to have been the case in Canada and Great Britain during the 1980s and early 1990s

(Godard 1997). Conversely, low unemployment and active labor market policies (e.g., high unemployment benefits, generous training and relocation programs) create conditions conducive to a high-commitment sociotechnical systems approach, as appears to have been the case in Sweden in the 1970s and 1980s (Berggren 1992:19).

Trade agreements also play an important role. In addition to heightening the economic pressures to which employers are subject, relaxed trade restrictions essentially render employers more mobile and hence may make the workplace more readily "disposable" (Drago 1996) so that employees become fearful of job loss and are effectively coerced to cooperate in workplace change programs, again enabling employers to rely on a lower-cost "control" approach rather than a higher-cost "commitment" approach. This appears to have been the case in the automobile industry, possibly explaining why a number of studies in that industry have found lean production to entail little more than an intensification of the labor process (for a review, see Landsbergis et al. 1999). There is also concern that relaxed trade restrictions allow employers to engage in more aggressive practices toward unions, using this mobility to extract concessions from unions with regard to collective agreement provisions and from states with regard to labor law and standards [see Gunderson (1998) for a review of the relevant literature].

There may be important interactions between state social and economic policies and the degree of legal regulation of the employment relation. Burawoy (1985:126) argues not only that improved state social insurance programs and legislation historically have resulted in a shift from despotic (i.e., based on coercion) to hegemonic (i.e., based on consent) workplace regimes but also that the degree and form of state regulation have played an important role in explaining differences in the form of hegemonic regime to emerge. Comparing Great Britain with the United States, he argues that in Great Britain a lack of state regulation of industrial relations helped give rise to a system of informal or fractional bargaining in the workplace, whereas in the United States the Wagner Act and related legislation helped give rise to a more bureaucratic one (Burawoy 1985:138–48). Burawoy (1985:148–52) also explicitly incorporates a role for trade policy, arguing that coupled with a lack of state control over the movement of capital, free trade policies are giving rise to a new type of regime, which he labels "hegemonic despotism" because although it entails consent, this consent is coerced by the fear of job loss.

The Broader Normative Cultural Context. State policies also may shape what employers do through their implications for the broader cognitive and

normative environments of employers. Particularly important may be state policies toward their own employees. Although these policies may not be intended to affect the policies of employers in other sectors directly or indirectly, it has been argued historically that states serve as exemplars, establishing normative or cognitive rules that come to be adopted within economies as a whole (Winchester and Bach 1995:308). Historically, this appears to have been through the adoption of more progressive or best practices than other employers. However, the opposite appears to have been the case over the past two decades. In the United States, Ronald Reagan's breaking of the Professional Air Traffic Controllers Organization (PATCO) strike is often cited as contributing to the growth in employer anti-union practices (e.g., Shostak and Skocik 1986; Dubofsky 1994:228–9), although Western and Farber (2000) find little evidence of this. In Great Britain, the Thatcher government's decision to downsize the public sector, introduce contingent employment arrangements, and contract out may be seen as contributing to (or at minimum, reinforcing) the adoption of low-cost policies in the private sector.

States also may help to shape the broader ideological climate within which employers act, thus indirectly influencing their industrial relations and human resources management policies through symbolic effects of broader policy objectives and rhetoric. In Great Britain, the Thatcher government appears to have promoted a shift in employer attitudes away from a more paternalistic and voluntaristic orientation that included a role for labor, toward one emphasizing an enterprise culture in which there was not only little role for labor but also an erosion of the principle of comparability that had been important to wage-setting processes under preceding regimes (see Crouch 1995:244–51). In turn, the strategy of the Blair government, as noted earlier, appears to have been to promote an ideology of partnership that extends the paternalistic tradition.

Implication: *High-skill, high-quality employment practices are more likely to become widespread to the extent that (1) competitive pressures and financial institutions are structured so as to promote long-termism, (2) labor markets are noncoercive and active labor market policies are in place, and (3) states adopt exemplary practices in their role as employers and promote an appropriate ideological climate.*

The Constitutive Environment

As constitutive institutions, states play an important role in shaping and enforcing rules and rights that undergird economic activity (see Fligstein

1996:660–5). These rules are often so basic to the structure of the employment relation within a given national context that they are taken for granted and hence overlooked. Thus they may have the appearance of operating by default, reflecting no explicit state policy or action, even though they embody rules and rights sanctioned by states and which are the cumulative effect of prior state actions (Woodiwiss 1990). They underpin the regulative and socioeconomic environments yet also may evolve over time as an unintended or accidental consequence of changes in these environments. Although they typically are imbued with normative and cognitive understandings perpetuated in part by states, they are most apparent in what Edelman and Suchman (1997) have referred to as constitutive law:

> Constitutive law generally functions almost invisibly, providing taken-for-granted labels, categories, and "default rules" for organizational behaviour. . . . although constitutive law often seems more placid and routine than facilitative and regulatory law, [it]. . . provides the fundamental building blocks that undergird the other two [1997:484–5].

More specifically, states historically have played a critical role in the constitution of property rights (see North 1981:124ff; Horwitz 1977; Campbell and Lindberg 1990) and labor markets (see Polanyi 1944:163ff; D. Jacoby 1991) and continue to do so, although often through common law (Klare 1988:51). This role takes the form not only of specific legislation but also of legal doctrines and rulings that reinforce or interpret established arrangements, often based on judicial assumptions and ideologies (Woodiwiss 1990; Atleson 1995). Thus there may be an endogenous relation, where states not only shape but also affirm concepts, definitions, and rights that have become taken for granted over time. Suchman and Edelman (1996) argue, for example, that taken-for-granted understandings of employee and employer rights underlie laws concerning hiring and firing employees, which in turn provide "scripts" for employers.

Most important in the present analysis, however, is the role of states in constituting the employment relation itself [for a fascinating analysis, see Veneziana (1986)] and how this pertains to employer practices. To address this, it is useful to distinguish liberal market economies from institutional economies (see Crouch and Streeck 1997). Both entail extensive state involvement in order to function (see Klare 1988:17–24; Polanyi 1944). In the former, however, established institutions primarily facilitate *rather than* constrain markets, whereas in the latter, established institutions constrain *as well as* facilitate markets.

In liberal market economies, such as the United States, Great Britain, and Canada, the employment relation is treated by states as a contract of service rather than of partnership or cooperation (Arthurs et al. 1993:131), and as such, it is considered distinct from ordinary contracts under property law (see Hepple 1986:11). Unlike a contract between two legal equals, in which legal rights and obligations not determined jointly by the parties derive from implicit understandings and norms that have developed over time, the employment contract is interpreted as providing employers with broad residual authority over virtually all matters not formally specified in contractual form (see F. Block 1994:701–2; Godard 1998; Hepple 1986). Employees generally are deemed to be in positions of subordination to managerial authority,[7] with little, if any, say over how this authority is exercised. As Commons phrased it:

> As a bargainer, the modern wage-earner is deemed to be the legal equal of his employer, induced to enter the transaction by persuasion or coercion; but once he is permitted to enter the place of employment, he becomes legally inferior, induced by commands which he is required to obey [Commons 1961:60–1, cited in Rowlinson 1997:120].

Not only does the employment relation become an asymmetric one once entered, managers generally are by law under a fiduciary obligation to owners (if they are not themselves owners). The result is that capital-labor interest conflicts become internalized within the employment relation as managers seek to manage the firm in accordance with ownership interests, unelected by and with little direct accountability to employees. This fundamentally shapes both how employers conceive of their rights and obligations with respect to the exercise of authority and the "problem" that drives the way in which it is exercised, i.e., the problem of control and commitment. This, in turn, has defining implications for what employers do and why what they do varies (see Godard 1998).

In more institutional economies, employees are also in positions of subordination. However, they may be granted a number of rights that bring

[7]The tendency of economists to view restrictions on employer authority as weakening property rights does not hold with respect to the employment relation. If property rights are defined as *control over assets owned by an employer* (e.g., those appearing in financial statements), restrictions on the use and deployment of labor cannot be viewed as depletions of or infringements on these rights unless one views employees as the property of employers. It therefore would appear that employer authority exists as a "residual right" deemed to derive from the employment contract as a relation of subordination (see F. Block 1994:700–1 for a discussion). However, that employer authority is not restricted to what has been specified (implicitly or explicitly) and would appear to be based on notions of managerial prerogative that derive from property rights (see Selznick 1969:136). Thus, while restrictions on employer authority cannot be seen as restrictions *on* property rights, the nature of this authority under the law may be seen as deriving *from* property rights.

the employment relation closer to a common-law conception of contractual relations, with implications for employer orientations toward employees. Perhaps the most obvious means of accomplishing this is through collective bargaining (see Selznick 1969:137–54), as some initially believed would be the case subsequent to the passing of the Wagner Act (e.g., Chamberlain 1948). However, the extent to which collective-bargaining rights reconstitute the employment relation and hence employer orientations depends in considerable measure on specific laws and doctrines addressing the scope of collective bargaining and of employer prerogatives. In North America, these laws and doctrines do not appear to have appreciably reconstituted the employment relation. Although they may have altered the conditions of subordination in union workplaces, a number of developments in the postwar era (e.g., Taft-Hartley, the mandatory/permissive distinction, the development of residual rights doctrine; see Klare 1988; Woodiwiss 1990:265ff) have prevented them from altering its fact (Panitch 1981; Coates 1983). As Atleson (1995:167) shows, taken-for-granted assumptions underlying judicial decisions have, in this respect, played an important role. Nonetheless, collective-bargaining laws may continue to represent a viable basis for achieving genuine workplace democracy in the United States (Klare 1988:42–67).

There also has been considerable interest in state promotion of a stakeholder model of the firm (e.g., Kelly, Kelly, and Gamble 1997).[8] Parkinson (1997), for example, has proposed the establishment of stakeholder supervisory boards that are independent of financial interests. A related alternative is to enact laws requiring directors of private corporations to ensure that employee well-being is taken into account in management decision processes, thus in theory providing employees with a form of stakeholder rights in the employment relation. Notably, this appears to have occurred already, albeit to a minor degree, in a number of U.S. states (Donaldson and Preston 1995). These sorts of arrangements can be seen as reconstituting the employment relation to the extent that they induce management to consider employee interests on a par with those of investors rather than subordinating the former to the pursuit of the latter. This, in turn, may result in substantially more employee-centered policies not just for rational material reasons but also because employer understandings of their roles and responsibilities would shift (i.e., a normative cultural change).

[8]Interest in this alternative has become especially strong in Great Britain, where stakeholder capitalism has been proposed as an alternative paradigm to guide state policy (e.g., Hutton 1995; Kelly et al. 1997).

The provision of strong consultation rights on specific issues also helps to shape the employment relation and hence how employers come to understand the purposes to which their authority is exercised. For example, the recent British labor law reforms include a strong requirement that employers consult with a union on training issues at least once every 6 months. Failure to do so can result in a complaint to an employment tribunal and fines of up to 2 weeks' pay for each member of the bargaining unit (Employee Relations Bill 1999:Sec. 6). It is possible that this represents a first step in a longer-term strategy to first develop more cooperative, consultative union-management relations and then gradually introduce increased consultation and even codecision rights over time. In Sweden, unions have enjoyed similar rights since the early 1980s (Kjellberg 1998:106–7).

A still more powerful means of reconstituting the employment relation so as to alter employer practices is the provision of legal representation rights such as those embedded in German-style co-determination. In effect, these rights can alter the legal structure of the employment relation and the objectives that guide employer policy formation processes. Of particular note are laws in the German steel and coal industries requiring that human resources management directors be approved by the union. However, laws providing for board representation and works council co-decision and consultation rights also may be viewed as substantially altering authority relations within the employment relation, providing a further explanation for the diversified quality production model associated with the German economy (Streeck 1992).

In Great Britain, a European Union (EU) directive requires employers with workplaces in more than one member nation to establish works councils. These works councils have very limited information-sharing and consultation rights and no co-decision rights. However, combined with the requirement for consultation over training, it is possible that such arrangements will help to promote a more cooperative partnership orientation, especially if these rights are increased gradually over time and extended to all workplaces.

The potential of establishing works councils has received considerable attention in some academic circles (e.g., Weiler 1990; Kochan and Osterman 1994; Adams 1995; Rogers and Streeck 1996), and survey findings suggest that workers are highly receptive to it, at least in the United States (Freeman and Rogers 1999). However, in the United States and Canada, political support for this option appears minimal (Kochan 1995:355). Finally, there have been some experiments with employee representation on

boards of directors, in the United States in particular. However, exempting German-style laws, they have been of little success (see Hunter 1998).

Unless appropriate institutional and cultural support systems are in place, stakeholder, consultation, and representation rights may prove of limited effectiveness. For example, Wever (1994) finds that the effectiveness of German works councils is largely dependent on the presence of a strong union, able to provide expertise and training to works councilors. Frege and Toth (1999) find that the adoption of works councils has been more successful in the former East Germany than in Hungary because workers in the former East Germany have had higher levels of trust in and commitment to their unions.[9] Yet, to the extent that such rights enjoy the necessary supports, they potentially can help to reconstitute the employment relation, again with implications for how employers (and workers) define their relative interests and the orientations they develop within the employment relation.

As for the other two environments identified in this article, it is likely that state attempts to change employer practices through a reconstitution of the employment relation would require cultural as well as material changes, in which states either promoted an alternative conception of this relation or enacted laws that served as catalysts to this effect (as discussed earlier). One alternative conception receiving attention is a citizenship model, in which employees are viewed not as just another stakeholder group but also as citizens with special rights and duties by virtue of their membership in the organization and the unique nature of the employment relation (i.e., subordination to employer authority). State encouragement of a system of employee ownership and control would represent perhaps the most far-reaching alternative in this regard (see Bowles and Gintis 1987; Frohlich et al. 1998; Godard 1999:49–51) because employees become full citizens, and employer decisions are oriented primarily toward their interests and values. Such a system, however, would require major institutional and hence state policy reforms (Fanning and McCarthy 1986).

Regardless of the specific approach adopted, the policy-formation criteria of employers could be altered substantially under an institutional rather than a market model. There is also reason to believe that such a model can improve regulatory effectiveness substantially (Rogers 1996) and enhance efficiency (Freeman and Lazear 1996).

[9]Research finding that union presence enhances the effectiveness of health and safety committees (Weil 1999) suggest support for this line of argument.

Implication: *States may shape employer policy-formation criteria through the establishment or promotion of employee stakeholder rights that alter the constitution of the employment relation.*

Prospects: Employer Paradigms, Institutional Logics, and State Traditions

The analysis so far suggests that there may be considerable opportunity for states to alter what employers do. Yet the effectiveness of such attempts may be conditional on a number of considerations. In particular, cognitive and normative rules that underlie employer policies and practices may have implications not only for the effectiveness of individual state actions per se but also, and partly as a result, for what actions states take. For example, an employer who is intensely anti-union and attaches little legitimacy to labor laws is likely to view British-style labor law reforms permitting extensive employer involvement in the recognition process as an opportunity to undermine a union organizing drive. Yet an employer who believes in partnership and views labor laws as establishing legitimate rules of the game (the apparent assumption of the British government) may view these reforms as providing an opportunity to participate more fully in the recognition process and hence to establish a true partnership relation. Thus employer cognitive and normative rules may sharply restrict what states are able to achieve and how they are able to achieve it.

States may attempt to alter these rules, as discussed earlier. A problem, however, is that these rules may be resistant to change, especially to the extent that employers adhere to consistent paradigms or *systems* of cognitive and normative rules that underlie decision making. It may be possible for states to induce employers to modify these paradigms through the implementation of reforms in a way that builds on yet augers for a change in established norms, as the Blair government may have been attempting with its labor law reforms. It also may be possible for states to promote a wholesale paradigm shift by implementing cumulative changes over time so that an alternative paradigm becomes more effective for employers. This may be especially effective where employers are subject to economic or normative pressures to adopt the new paradigm (Kochan, Katz, and McKersie 1986). A possible complication, however, is that employer paradigms may vary substantially across firms and industries (Godard 1996), potentially requiring states to tailor their policies accordingly.

The importance of employer paradigms should not be overstated. Employer values and beliefs may not be highly consistent internally (Godard 1996). Moreover, much may depend on whether government policies entail strong rather than weak laws. Where strong laws are enacted, employers may even perceive little realistic option but to accept them, potentially changing their paradigms if only because they have little effective choice. In contrast, where laws are weak, they may view resistance as a viable option, engaging in behaviors that only reinforce established values and beliefs and solidify resistance. While the former would appear to be consistent with the Canadian experience with labor law (discussed earlier), the latter would appear to be consistent with that of the United States (Wood and Godard 1999). The former also would appear to be consistent with the works council system in Germany, the enactment of which was strongly resisted by employers yet which has come to be accepted widely (especially in large workplaces) and now generally is viewed positively (see Addison 1999:81).

Employer practices also cannot be viewed in isolation from the overall system within which employers act or the interests to which they are accountable. Thus the more important issue may have to do with the ways in which broader institutional systems shape employer behavior and how states, in turn, shape these systems. It is useful to consider institutional logics that may be associated with industrial relations systems and the role of states in shaping these logics. One may compare the corporatist logic that is associated with the German system with the liberal-market logic associated with the United States, Canada, and Great Britain. For example, Soskice (1997) argues that the apparent effectiveness of German co-determination laws in fostering a stakeholder model is contingent on a broader system of long-term bank financing, regulated labor markets, and sectoral bargaining, none of which characterizes the United States, Great Britain, or Canada (also see Streeck 1997). Broader social programs (e.g., day-care availability, health care) and even family structures also may be important in this respect, helping to explain and form an important part of an established logic (see Esping-Anderson 1999). National-level employer, union, and governmental structures also may matter (Gordon 1998; Baccaro 2000). Although a number of these considerations have been discussed in this article, the point to be made is that policies intended to alter what employers do cannot be implemented on a piecemeal basis but may instead need to be consistent with an institutional logic that encompasses, but may be far broader than, any established employer paradigm.

States also may be constrained by institutional traditions (Hall 1997), which tend to be associated closely with institutional logics. In effect, prior institutional choices may limit available future options (Krasner 1988) so that states face path-dependent constraints (see especially North 1990:92–104). In his study of European state traditions, Crouch (1993:333–50) concludes that there is considerable continuity in national styles and that the success of attempts to alter industrial relations institutions or imitate those of other countries may be highly dependent on established institutions and state traditions. King and Rothstein (1993) make a similar argument, maintaining that Sweden was able to establish an active labor market policy in the 1950s because the existence of a historically specific form of state intervention in the labor market helped to ensure its institutional legitimacy. In contrast, efforts to implement a more active labor market policy in Great Britain lacked legitimacy because of a tradition of limited intervention. As a further example, yet another possible explanation for the apparent superiority of the Canadian labor law system relative to its U.S. counterpart in ensuring the ability of workers to obtain meaningful collective-bargaining rights (Wood and Godard 1999:213–6) may in part reflect a legal tradition more favorable to administrative law (Bruce 1993; Taras 1997) and state intervention (Chaison and Rose 1994), thus restricting the extent to which Canadian-style reforms are likely to be effective in the United States.

The possibility of change may be further constrained to the extent that developments of the past few decades have resulted in increased pressures for convergence toward a more neo-liberal or managerial model (Strange 1997). Although these pressures in considerable part have been shaped, if not created, by the actions of states and too often may be overstated, the range of viable policy options may have become more limited than in the past, reducing the scope for shaping what employers do.

This suggests an important paradox. While states may play a critical role in shaping what employers do, this role may be limited to policies that effectively maintain and perpetuate the status quo, with their ability to substantially *change* what employers do sharply limited by established state traditions, institutional logics, and employer paradigms. To the extent that states do possess choice, it may now be primarily in the direction of a neo-liberal model that reduces state control over employers and enhances employer power and authority. Yet this may be too pessimistic. First, as both punctuated equilibrium (Krasner 1984; Erikson and Kuruvilla 1998) and long-wave (see Kelly 1998) theorists have argued, there may be critical times during which paradigmatic change is possible in industrial relations and during which states can play a critical role in reshaping institutions accordingly. Second, where paradigmatic change is not possible directly,

states may still effect such change through the cumulative effects of incremental changes that are of strategic importance, as suggested earlier. Third, although there appears to have been some convergence, there continues to be considerable diversity across nation-states and little evidence that any one model is more effective than the others, again as suggested earlier. In any case, the development of some form of alternative policy paradigm would appear to be essential to any attempt to alter employer practices in any fundamental way through state policies (Hall 1992).

Implication: *The implications of state actions may be contingent on and limited by existing employer paradigms, institutional logics, and state traditions, although states may attempt to promote paradigmatic change at critical historical junctures or through incremental changes with strategic importance*.

Conclusions

This article has attempted to establish the myriad of ways in which states may shape the institutional environments in which employers act, whether it be by design, by accident, or by default. In so doing, it has identified five implications that may, in combination, serve as general guidelines for more systematic analysis of how states shape what employers do and for more sophisticated analysis of state policy options. However, this article can only be viewed as a starting point.

First, the literature on how states influence employers remains often speculative, thus limiting our ability to determine the degree to which, and conditions under which, various policies and practices considered in this article indeed actually matter. For example, there is little evidence as to the success with which states are able to influence employer cognitions and norms. There is also little evidence as to the implications of state policies and laws for employer orientations (e.g., short-termism). Thus this article points to the need for increased research in these and other areas.

Second, this article has neither fully addressed the numerous interactions between state policies and practices nor fully addressed the endogeneity problem of employers shaping what states do and vice versa. Only through more systematic historical and comparative analysis of state policies and the processes by which they have been formulated will this be possible. Although this article ideally has helped to both establish the need for such analysis and to lay the foundation for it, our understanding of how states affect employer practices will be limited and piecemeal until such analysis has been conducted.

Third, a basic objective of this article has been to establish that attempts to develop alternative paradigms need to go beyond regulation to consider more carefully the interactions between the legal and the normative and the role of state policies in shaping both the socioeconomic and the constitutive environments believed to affect employer decision making. Although this article has attempted to establish the basis for more sophisticated policy analysis, it has not attempted to provide specific prescriptions and paradigms that would follow from such analysis.

At present, it would appear that overcoming the latter of these limitations is of particular importance, especially in the United States. The orthodox pluralist paradigm appears to have fallen into disfavor if, indeed, it was ever fully suited to, or characteristic of, the U.S. policy context (Stone 1981). In any case, employers appear to have increasingly flouted collective-bargaining laws (Human Rights Watch 2000). Attempts to develop a more management-centered paradigm, based on convincing employers that it is in their interests to adopt high-performance policies, also appears to have been of limited success (Godard and Delaney 2000). Instead, there is concern that significant numbers of employers may be opting for a low-cost, low-skill option, characterized by low training, little job security, and stressful working conditions (e.g., Cappelli et al. 1997; Boyle 1998; Harrison 1994).

There *have* been numerous attempts to develop specific state policy approaches to labor market problems, but as this article reflects, these typically focus on specific issues (e.g., how to impose statutory regulations more efficiently). There is need, therefore, to develop an overarching state policy paradigm that encompasses yet moves beyond the traditional focus on regulation. This paradigm must be sensitive, but not captive, to existing employer paradigms, institutional logics, and state traditions, encouraging employer practices that are less antithetical to meaningful collective representation for employees and more conducive to the creation of high-quality employment.

The need for an alternative paradigm extends beyond traditional industrial relations issues. At the present juncture in history, established paradigms appear increasingly ineffective; liberal market economies have seen substantial deterioration in labor market conditions for large segments of their labor force, and their more institutional counterparts have faced an ongoing erosion in the strength and effectiveness of national compromises forged after World War II. Although these problems are commonly attributed to globalization, they are complicated by what many consider to be fundamental changes in the relationship between work and society as the role of women in labor markets has been strengthened and patriarchal

family structures have begun to dissolve. A new paradigm therefore may need to consider not just more macro developments and their implications for traditional industrial relations topics but also these more micro developments and their implications for the relations between work and the social welfare (see Carpenter and Jefferys 2000; Supiot 2001, Rubery 1999, 2001). Indeed, the future of the field may depend on its ability to broaden its orientation so as to focus on and develop a distinctive paradigm that addresses not just the relationship between work and society (in addition to the economy) but also how institutions define and shape this relationship and the role played by states. In this regard, a more state-centered, institutional approach may be critical.

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