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German Codetermination without Nationalization, and British Nationalization without Codetermination: Retelling the Story

Rebecca Zahn

Codetermination – worker participation in management – forms part of the industrial relations traditions of a number of European countries.¹ Among these, the German system of parity codetermination (*paritätische Mitbestimmung*) – the focus of this article – provides the greatest level of involvement for workers by allowing for equal representation of employees and management on the supervisory boards of companies in certain industries and above specific size thresholds. This model of codetermination was first introduced in the iron and steel industries by the British military command after the Second World War and is widely regarded in the German literature as a successful trade-union achievement and a vital

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¹ Worker representation at the workplace can either take place through trade unions, works councils or at board level. Within the European Union, eighteen member-states make statutory provision for some form of board-level representation. Of these, the German system of equal representation of workers and employer representatives on the supervisory board of the coal, and iron and steel industries, provides the greatest level of involvement. See L. Fulton, *Worker Representation in Europe* (Labour Research Department and ETUI: 2013) available at <http://www.worker-participation.eu/National-Industrial-Relations/Across-Europe/Board-level-Representation2>. For a broader definition and discussion of the term 'Mitbestimmung – Codetermination' see M. Weiss, *European Employment and Industrial Relations Glossary: Germany* (Sweet and Maxwell: 1992), pp. 227–8.

element,² even the most important ‘socio-political innovation’ of German post-war industrial democracy.³

However, a closer reading of the British accounts of the negotiations among the Allied powers over ownership of the coal and steel industries raises the question as to why codetermination was introduced when the ultimate goal of British policy is repeatedly outlined as nationalization of heavy industry.⁴ One must therefore ask whether codetermination was intended as a form of industrial democracy or whether it was actually a British compromise and a first step on the road to the goal of nationalization of these industries (which was never completed). Parallels – which have largely been overlooked but which help to explain the reasons for the introduction of codetermination – can be drawn with the debates taking place in the UK with regard to the programme of nationalization initiated by the new Labour government, elected in July 1945.

However, there were repeated attempts to delay the nationalization of the iron and steel industries for economic reasons until at least after the general election in 1950. Yet any postponement was seen as irreconcilable with the British insistence on the nationalization of the German iron and steel industries,⁵ lending weight to the argument that the introduction of codetermination in Germany should be considered a stepping stone to nationalization. This article considers not only why codetermination was not introduced in the UK when similar debates on codetermination and nationalization were taking place at the same time, but also whether the failure to institute a system of worker participation in management in the UK should be considered a missed opportunity.

² There is only limited archival material and historical literature documenting the negotiations that resulted in the adoption of *Mitbestimmung*. The most detailed and influential account was written by E. Potthoff, *Der Kampf um die Montanmitbestimmung* (Bund-Verlag, Köln: 1957) who as head of the West German trade-union confederation’s (DGB) economic research institute (*Wirtschaftswissenschaftliches Institut*) between 1946 and 1949 played an influential role in the elaboration and implementation of the concept. See also H. Thum, *Mitbestimmung in der Montanindustrie* (DVA, Stuttgart: 1982) and G. Müller, *Mitbestimmung in der Nachkriegszeit* (Schwan, Düsseldorf: 1987).

³ *Ibid.*, p. 7: ‘die bedeutsamste sozialpolitische Neuerung in der Geschichte der Bundesrepublik.’

⁴ See A. Bullock, *The Life and Times of Ernest Bevin: Vol. 3, Foreign Secretary 1945–1951* (Heinemann: 1983), ch. 11.

⁵ See H. Pelling, *The Labour Governments 1945–51* (Macmillan: 1984).

Iron and steel in post-war Germany: attempts at nationalization

Codetermination in the form of some sort of employee representation in German enterprises had existed in different forms since the 1890s.⁶ It was formally provided for in legislation with the introduction of the Works Council Act (*Betriebsrätegesetz*) in 1920.⁷ However, as Grebing points out,

the double task imposed on the works councils [during this period] proved extremely difficult, if not altogether impossible; they were to “look after the common economic interests of the employees vis à vis the employer”, and at the same time, “support the employer in the fulfilment of the establishment’s purpose”.⁸

The Act was repealed by the Nazi government in 1934 and replaced with an Act for the organization of national labour (*Gesetz zur Ordnung der nationalen Arbeit*) which abolished any kind of codetermination.

After the Second World War and the unconditional surrender and military occupation of Germany by the four Allied powers,⁹ economic production – especially in the German coal, and iron and steel industries – was at the heart of much of the Allied discussions.¹⁰ France objected fundamentally to the restoration of German industry to its old levels of

⁶ For an overview of the history of the German system of workers’ representation see R. Dukes, ‘The Origins of the German System of Worker Representation’ *Historical Studies in Industrial Relations (HSIR)* 19 (2005), pp. 31–62.

⁷ L. F. Neumann and K. Schaper, *Die Sozialordnung der Bundesrepublik Deutschland* (Bundeszentrale für politische Bildung, 2008), p. 33.

⁸ H. Grebing, *The History of the German Labour Movement* (Oswald Wolff: 1969), p. 107.

⁹ After its unconditional surrender on 7/8 May 1945, Germany was divided into four occupation zones which were governed by the Allied Control Council, set up as an overarching control body able to issue laws, directives, orders, and proclamations. The Council was run by the UK, the USA, France, and the Soviet Union. The four occupation zones were controlled at an administrative level by the *Gouvernement Militaire de la Zone Française d’Occupation (GMZFO)* (France), the Control Commission for Germany (British Element) (UK), the Office of Military Government, United States (OMGUS) (USA), and the Soviet Military Administration in Germany (Soviet Union). For a detailed overview see Bundeszentrale für politische Bildung, *Errichtung der Besatzungsherrschaft* (2005) available at <http://www.bpb.de/izpb/10048/errichtung-der-besatzungsherrschaft?p=1>.

¹⁰ For an overview of the rationale behind British military and economic policy, particularly with regard to the denazification of large enterprises, see Thum, *Mitbestimmung*, pp. 26–31 and the references at pp. 27–8.

production which it saw as a renewed threat to its own and Europe's security.¹¹ Its representatives argued instead for the separation of the Rhineland and the Ruhr from Germany, or at least for the internationalization of the Ruhr so that its coal resources could be used to build up the heavy industry of Germany's neighbours and so avoid recreating Germany's former industrial domination. The US, on the other hand, did not have a common position. The War Department proposed that ownership should be vested in German trustees until a German central government was established, and the German people could vote on the issue of nationalization in more 'normal' conditions after five years. By way of contrast, the State Department supported the French position that German industry should be included in a European recovery programme. From the outset, however, the decentralization of German industry formed a key part of Allied policy.¹²

In the British sector where most heavy industry was located, the initial focus was decentralization of industry, combined with a process of denazification. Thus the 'British policy in denazifying German industry was two-pronged: first, to investigate and, where a case existed, to dismiss management; second, to strengthen the role of the trade unions.'¹³ From an economic point of view, the British were keen for German industry to play a vital role in ensuring German economic recovery so as to lessen the financial pressure on the UK as an occupying power. Heavy industry, particularly iron and steel which was controlled by a handful of companies, was to be restructured and broken up into smaller entities. In July 1946, Sholto Douglas, Commander of the British Zone in Germany, on the basis of plans outlined by Ernest Bevin, the British Foreign Secretary, to the Cabinet early in 1946, announced plans for the eventual nationalization (or socialization as it was referred to) of the main German industries. There is doubt in the German literature as to whether the British were serious in their pursuit of nationalization¹⁴ as the policy did not seem to correspond with the UK's economic priorities of increasing German production.¹⁵

¹¹ Bullock, *Bevin: Foreign Secretary*, ch. 7.

¹² See the Potsdam Agreement in *Mitteilungen über die Dreimächtekonferenz*, Europa-Archiv, pp. 216–17.

¹³ F. Taylor, *Exorcising Hitler* (Bloomsbury: 2011), p. 308.

¹⁴ See W. Rudzio, 'Die ausgebliebene Sozialisierung an Rhein und Ruhr. Zur Sozialisierungspolitik von Labour-Regierung und SPD 1945–1949' *Archiv für Sozialgeschichte* (1978), pp. 1–39; H. Lademacher, 'Die britische Sozialisierungspolitik im Rhein-Ruhr-Raum 1945–1948' in C. Scharf and H. J. Schröder (eds), *Die Deutschlandpolitik Großbritanniens und die britische Zone 1945–1949* (Steiner Franz Verlag, Wiesbaden: 1979), pp. 51–92.

¹⁵ Müller, *Mitbestimmung*, p. 31.

Nationalization would imply a change in management which would initially lead to a fall in output rather than making Germany less reliant on British financial support, and, moreover, the British made few attempts in practice to pursue nationalization.¹⁶ Following this line of reasoning, the seizure of the iron and steel companies in August 1946 and their placement under the control of the British-administered North German Iron and Steel Control Authority (NGISC) should be seen as a temporary measure in order to better organize the industry's decentralization rather than as an act of nationalization.¹⁷ While the British did pursue decentralization of the sector from 1946 onwards, this occurred in parallel to ongoing negotiations between the UK, the USA, and France over possible nationalization.¹⁸

A different picture emerges from the British literature, where Bevin's commitment to nationalization becomes obvious. In an article written for *The Times* in 1977, William Harris-Burland, the British official in Germany responsible for the decentralization of German industry, recalled:

In 1946 I was appointed controller of the steel concerns in the British zone of control, with instructions to reorganize and deconcentrate them in fulfilment of a requirement in the Potsdam agreement. To this was later added a quasi-secret instruction to prepare the steel industry for nationalization.¹⁹

There is also clear evidence that in proposing nationalization, Bevin was heavily influenced by the UK government's domestic approach to industrial planning,²⁰ and in particular by left-wing supporters of the British Labour Party.²¹ This is not surprising as Bevin had been active in British industrial relations before the war as general secretary of the Transport and General Workers' Union (TGWU) from 1922 to 1940, and held the position of Minister for

¹⁶ W. Adelshauer, 'Die verhinderte Neuordnung? Wirtschaftsordnung und Sozialstaatsprinzip in der Nachkriegszeit' *Politische Bildung* (1976), pp. 53–72.

¹⁷ Müller, *Mitbestimmung*, p. 32.

¹⁸ For an overview of decentralization see Thum, *Mitbestimmung*, pp. 31–7.

¹⁹ W. Harris-Burland, 'Workers' Role in German industry', *The Times*, 27 January 1977.

²⁰ See Pelling, *The Labour Governments*, ch. 5.

²¹ See E. Schmidt, *Die verhinderte Neuordnung 1945–1952* (Europäische Verlagsanstalt, Frankfurt a.M.: 1971), p. 84.

Labour and National Service from 1940 to 1945,²² before becoming Foreign Secretary in 1945, and he continued to be involved in British domestic politics.

In April 1946, Bevin recommended first the creation of 'a new German province' and, second, that the heavy industries should 'be made into a socialised German corporation whose relation to the Provincial Government would be the same as that of the National Coal Board in this country to HMG [His Majesty's Government].'²³ This proposal was not accepted by the USA and France, both of which favoured the internationalization of the Ruhr. Nonetheless, later that year, in August, Bevin 'committed the British Government to the public ownership of German heavy industry',²⁴ and confirmed the British intention 'that these industries should be owned and worked by the German people.'²⁵ The transfer of the iron and steel industries to the control of the NGISC should therefore be considered a first step towards nationalization. This is supported by the reaction of the German metal workers' union to the creation of the NGISC when it described the transfer 'as the first step towards the socialization of heavy industry' and which called for the active involvement of German trade unions in the NGISC's work if a democratization of the economy through nationalization were to succeed.²⁶

Disputes between the Allied powers over the nature and form of nationalization continued into the autumn of 1947. In the hope of appeasing the *Gouvernement Militaire de la Zone Française d'Occupation (GMZFO)* which was vehemently opposed to any form of nationalization, Bevin repeatedly clarified that he did not advocate the transfer of the industries to a German government,²⁷ but argued in favour of decentralization and the vesting of industry ownership in the new Land Nordrhein-Westfalen. Bevin's main political supporters over this issue were the British trade unions which 'were completely wedded to the idea of public ownership and were afraid that, if measures of socialisation were not

²² See A. Bullock, *The Life and Times of Ernest Bevin: Volume 1, Trade Union Leader 1881–1940* (Heinemann: 1960).

²³ Memorandum by the Secretary of State for Foreign Affairs on the Ruhr and West Germany circulated to the Cabinet, 15 April 1946, CAB 129/8/39, The National Archives (TNA), Kew London.

²⁴ Bullock, *Bevin: Foreign Secretary*, p. 320.

²⁵ Memorandum by the Secretary of State for Foreign Affairs on Germany, 17 October 1946, CAB 129/13/33, Conclusions and Recommendations, TNA.

²⁶ Schmidt, *Die verhinderte Neuordnung*, p. 76.

²⁷ This would have not only upset France which was fearful of the recreation of a strong German state but there was also a perceived danger of a future German government falling under Communist-Russian Control. See Bullock, *Bevin: Foreign Secretary*, pp. 340–3.

carried out quickly, there was a danger of the ownership of these industries with their dangerous war potential reverting to the large combines.²⁸ British trade unions were of course also heavily influenced by the domestic debate taking place in the UK over the nationalization of heavy industry, which they actively endorsed (see below).

French and especially American opposition to nationalization were pivotal in securing its eventual failure.²⁹ From an American perspective, nationalization would hamper the Ruhr's industrial output; an increase of which was perceived as vital for broader European economic recovery. The French, on the other hand, 'objected fundamentally to the restoration of German industry to its old levels of production which they saw as a renewed threat to their own and Europe's security' arguing instead 'for the separation of the Rhine-land and the Ruhr from Germany, or at least for the internationalization of the Ruhr.'³⁰ In August 1947, during tripartite talks between the British, Americans and French which took place at a time when the UK could no longer afford to financially support its German zone and was heavily indebted to the USA, Bevin eventually agreed to an American compromise:

The joint communiqué issued at the end of the coal talks, on 10 September, transferred responsibility for coal production to German hands under the supervision of a joint US/UK control group. The question of ownership of the mines was left open, but when the two military governments published their Law No. 75 for the reorganization of both the German coal and steel industries, two months later, ownership, in both cases, was vested in German trustees pending a final decision by 'a representative, freely-elected German government.'³¹

Whereas the compromise kept open the possibility of future nationalization, it took the process out of British hands, and plans for nationalization were eventually shelved. What remains of the aim of socialization is *Mitbestimmung*, or, as Bullock writes, 'the legacy of the British occupation was not, as Bevin had hoped, the nationalization of the German coal and steel industries but the institution of *Mitbestimmung* (codetermination between

²⁸ Lew Douglas (US Ambassador) report to US Secretary of State, 4 July 1947. Foreign Relations of the United States (FRUS) 1947 (3) p. 312.

²⁹ Bullock, *Bevin: Foreign Secretary*, ch. 11.

³⁰ *Ibid.*, p. 431.

³¹ *Ibid.*, p. 435 citing the text of the communiqué in *RIIA Documents 1947–48*, pp. 622–3 and of Law No. 75, pp. 637–45.

management and trade unions, a practice which, despite its success in Germany ... has still to be introduced in Britain itself.³² Similarly, Harris-Burland suggests that 'those in the Labour Government who had been advocating nationalization of the German steel industry, when they saw their aim to be unattainable, were prepared to console themselves with codetermination as a substitute.'³³

Iron and steel in post-war Germany: the introduction of codetermination

Reconstituted German trade unions³⁴ had begun to call for the institutionalization of *Mitbestimmung* – which they associated with the equal status of workers and employers in the management of enterprises – as early as March 1946 at their first post-war congress.³⁵ Influenced by plans for a reorganization of the German economy drawn up by exiled German trade-unionists based in the UK during the Second World War,³⁶ German trade unions supported codetermination to control the employers, and to obtain a role in the regulation of workers' terms and conditions of employment. It was unclear, however, whether rights of codetermination should be granted to works councils or trade unions. While the general tenor of the congress spoke of works councils being granted rights of 'codetermination in all

³² *Ibid.*, pp. 435–6.

³³ Harris-Burland, *The Times*, 27 January 1977.

³⁴ As a result of military restrictions on the right to freedom of association in the early post-war years (Industrial Relations Directive No. 1, 1945), trade unions were initially concentrated at a local level. The first trade-union confederation within the British zone was not formed until April 1947. In parallel, a group of former union leaders from the Weimar Republic had come together to form a committee (*Siebener-Ausschuß*) led by Hans Böckler in March 1945. This committee operated as the voice of local trade unions and acted as principal contact for the British government and military leaders. See G. Müller, *Mitbestimmung*, p. 68. For an overview of the state of German trade-unionism in the late 1940s see Grebing, *History*, pp. 172–82.

³⁵ Protokoll der ersten Gewerkschaftskonferenz der britischen Zone vom 12.–14. März 1946, Hannover.

³⁶ Schmidt, *Die verhinderte Neuordnung*, p. 67. See also G. Stuttard, 'Book Review of C. Dartmann, *Redistribution of Power: Joint Consultation or Productivity Coalitions? Labour and Postwar Reconstruction in Germany and Britain, 1945–1953* (Brockmeyer, Bochum: 1996)', *HSIR* 15 (2003), 147–51 who references the document at p. 149. For a more detailed overview of the rationale behind German trade-unions' reasoning see C. Dartmann, *Redistribution of Power, Joint Consultation or Productivity Coalitions* (Brockmeyer, Bochum: 1996), pp. 94–147.

social and labour law related matters of the enterprise and of responsible collaboration and codetermination in the areas of production and distribution of profits',³⁷ Hans Böckler – president of the German trade-union confederation in the British Zone – firmly argued in favour of trade unions taking on such a role:

We really cannot leave the employers alone together in a room by themselves for a moment and if we have separate chambers [for the employer and the workers], then I can tell you exactly what will happen. ... We have to be directly involved in the economy and be equals. ... So I suggest the following: representation on the management boards and supervisory boards of industry.³⁸

A resolution calling for 'the right to codetermination for trade unions and works councils in industry'³⁹ was passed at the second trade-union congress held in December 1946

In parallel, German trade unions called for a reorganization of the economy in which heavy industry should become 'communal property' (*Gemeineigentum*) rather than outright nationalization.⁴⁰ Codetermination was conceived as an integral part of such a reorganization, particularly by the Metalworkers' Union (*IGMetall*) which represented workers in the iron and steel industries.⁴¹ The British Labour government was seen as an ally, and its plans for the decentralization of the iron and steel industries were considered to open up the possibility for trade unions to participate in industrial reorganization.⁴² In a

³⁷ Protokoll der ersten Gewerkschaftskonferenz der britischen Zone vom 12.–14. März 1946, Hannover. EntschlieÙung Nr. 6, p. 56: 'Diese Rechte [des Betriebsrats] bestehen in der Mitbestimmung der Betriebsräte in allen sozialen und arbeitsrechtlichen Angelegenheiten des Betriebes und der verantwortlichen Mitarbeit und Mitbestimmung bei der Produktion und der Verteilung des Ertrags.'

³⁸ *Ibid.*, Hans Böckler at p. 33: 'Wir dürfen aber eigentlich die Unternehmer keinen Augenblick unter sich alleine lassen, und bei getrennten Kammern weiß ich genau, wie es kommt. ... Wir müssen in der Wirtschaft selber sein, also völlig gleichberechtigt vertreten sein ... Also der Gedanke ist der: Vertretung in den Vorständen und Aufsichtsräten der Gesellschaften.'

³⁹ Schmidt, *Die verhinderte Neuordnung*, p. 71.

⁴⁰ While nationalization involves the transfer of private property to state ownership, communal property implies public ownership of industry which is also publicly available. This can only be achieved through a democratization of an industry and its production processes through, for example, codetermination.

⁴¹ Thum, *Mitbestimmung*, p. 20.

⁴² *Ibid.*, p. 25.

statement on the socialization of German industry, German trade unions called for equal participation of workers and management on the supervisory boards of industry.⁴³ Harris-Burland recalls that Böckler approached the NGISC in 1946 to request ‘that the appointments to [the decentralized iron and steel] companies’ supervisory and management boards should include representatives of the trade unions and workers’.⁴⁴ In negotiating over the future of the iron and steel industries, German trade unions adopted a conciliatory approach, offering their support for British plans for industrial reorganization and economic growth in return for organizational reform, including the introduction of codetermination.⁴⁵

After Böckler’s initial request, from October 1946 the NGISC involved German trade unions in the decentralization of the iron and steel industries. In addition, Harris-Burland appointed Rennie Smith – a former Labour Party MP and trade-unionist fluent in German and English⁴⁶ – as a mediator between the NGISC and the German trade unions. At a meeting between Harris-Burland for the NGISC, Heinrich Dinkelbach and Günter Max Paefgen as representatives of its German trustees (*Treuhandverwaltung*) and six trade-union representatives (including Böckler) on 14 December 1946, Dinkelbach outlined a plan, which had already been approved by the relevant British authorities in London and by the British military government in Berlin, to reorganize the iron and steel industries.⁴⁷ Its principal objectives were to limit the sphere of influence of the current owners while also guaranteeing worker involvement in the management of the industries.⁴⁸ As such, the underlying aim of worker involvement was to guarantee ‘true industrial democracy’.⁴⁹

While Dinkelbach suggested that future negotiations with trade unions would clarify the extent of worker involvement in management, he suggested equal representation for workers and management on the supervisory boards of the iron and steel industries.⁵⁰ The

⁴³ B109/144 ‘Niederschrift über die Zusammenkunft mit den Vertretern der Gewerkschaften’ at Anlage 2: ‘Stellungnahme der Gewerkschaften zur Sozialisierung’, 11 December 1946, p. 3.

⁴⁴ Harris-Burland, *The Times*, 27 January 1977.

⁴⁵ Thum, *Mitbestimmung*, p. 26.

⁴⁶ See M. Ceadel, *Semi-Detached Idealists: The British Peace Movement and International Relations 1854–1945* (Oxford University Press: 2000), pp. 298–9 and B109/144 ‘Niederschrift über die Zusammenkunft mit den Vertretern der Gewerkschaften’ at Anlage 1.

⁴⁷ Schmidt, *Die verhinderte Neuordnung*, p. 76.

⁴⁸ B109/144 ‘Niederschrift über die Zusammenkunft mit den Vertretern der Gewerkschaften’ at Anlage 1, p. 2.

⁴⁹ *Ibid.*, p. 4: ‘Im Sinne einer wahren Wirtschaftsdemokratie werden die Rechte der Arbeiter in jeder Hinsicht gewahrt.’

⁵⁰ *Ibid.*, p. 3; see Schmidt, *Die verhinderte Neuordnung*, p. 77.

detailed framework for this unprecedented form of codetermination was subsequently negotiated between trade unions⁵¹ and the *Treuhandverwaltung*, and finalized in January 1947. The management board was to include a 'labour director' (*Arbeitsdirektor*) as one of its three members who could only be appointed with the agreement of the trade unions, and supervisory boards were to consist of eleven members, five of which were to represent the employer and the workers respectively,⁵² with the neutral chairman appointed by the *Treuhandverwaltung*. Industry owners were not involved in the negotiations and were only officially informed of the outcome in January 1947. Equal representation on supervisory boards was extended beyond the British military zone in April 1951 by an Act of the German Parliament (*Gesetz über die paritätische Mitbestimmung in der Montanindustrie*) to cover the coal, and iron and steel industries, and paved the way for the Works Constitution Act 1952 (*Betriebsverfassungsgesetz*) which reintroduced works councils and extended worker representation on supervisory boards to other industries.⁵³

Müller argues that the owners, despite not being officially involved in the negotiations over the future of heavy industry, were prepared to accept far-reaching worker involvement in management in order to garner trade-union support against British plans for the break-up of the coal, and iron and steel industries.⁵⁴ Here it has been argued, that codetermination was the result of Anglo-German co-operation that fostered solidarity between employers and workers, leading to the implementation of a union policy with the agreement of the relevant employers.⁵⁵ This thesis is not supported by all writers on the subject. For example, Nautz and Hüttenberger argue that the British were not supportive of

⁵¹ Led by E. Potthoff and K. Strohmenger.

⁵² Among the five worker representatives two would be nominated by the works council, two by the trade unions and one from another source. See Thum, *Mitbestimmung*, p. 36.

⁵³ The 1952 Act provides for codetermination on the supervisory boards of companies with more than 500 employees. Employee representatives make up one-third of the members of the supervisory board in such cases. The 1951 Act provides for parity codetermination on the supervisory boards of the coal, iron and steel industries.

⁵⁴ Müller, *Mitbestimmung*. See also Thum, *Mitbestimmung*, p. 35 where he summarizes letters between industry owners and trade unions offering trade unions shares and information and consultation rights in return for their support against British decentralization plans.

⁵⁵ W. Hirsch-Weber, *Gewerkschaften in der Politik* (Verlag für Sozialwissenschaften, Köln: 1959), pp. 82–4.

codetermination and, indeed, were pushing instead for the reform of German industrial relations to model the British system of free collective bargaining.⁵⁶

The introduction of codetermination should therefore be seen as a strategic mechanism to alter the role of trade unions. Regardless of the underlying British aims, the central role played by the British in the creation of codetermination should not be overlooked. Harris-Burland, in particular, appears to have played a vital part in introducing codetermination. Rennie Smith writes that Harris-Burland was convinced that ‘the Trade Unions had an important part to play. As far as he was concerned, he wanted to see them play it. He was willing to take them fully into confidence.’⁵⁷ Moreover, Harris-Burland viewed the trade unions ‘as one of the chief stabilising influences in the political, social and economic life of the British Zone.’⁵⁸ On a broader level, Bernecker, Berghahn, and Müller emphasize the positive British attitude towards the very idea of workers’ involvement in management, as well as their natural affinity with the social-democratic leadership of the German trade unions.⁵⁹ This is perhaps not surprising as similar discussions over nationalization and codetermination were taking place in the UK at the same time (see below). Arguably, therefore, British intervention created the necessary framework and sufficient pressure so that agreement over the concept of codetermination could be reached. As Schmidt explains: ‘the introduction of parity codetermination in the iron and steel industries in February 1947 is therefore the result of trade union pressure for the democratization of the economy, as well as fulfilling the interests of the British.’⁶⁰ While the introduction of *Mitbestimmung* can be celebrated as an achievement of the German trade unions, it is unlikely that the idea would have come to fruition without the positive support

⁵⁶ J. P. Nautz, *Die Durchsetzung der Tarifautonomie in Westdeutschland. Das Tarifvertragsgesetz vom 9.4.1949* (Peter Lang, Frankfurt a.M.: 1985); P. Hüttenberger, ‘Die Anfänge der Gesellschaftspolitik in der britischen Zone’ *Vierteljahreshefte für Zeitgeschichte* 21 (1973), pp. 171–6.

⁵⁷ Rennie Smith, diaries III, entry for 16–31 December 1946, Bodleian Library.

⁵⁸ ‘Interim Report upon the progress made in carrying out Operation “Severance”’, 21 March 1947, FO 1039/816, TNA.

⁵⁹ Müller, *Mitbestimmung*; W. L. Bernecker, ‘Die Neugründung der Gewerkschaften in den Westzonen 1945–1949’, in J. Becker, T. Stammen and P. Waldmann (eds), *Vorgeschichte der Bundesrepublik Deutschland* (Fink, München: 1979), pp. 261–92; V. Berghahn, *Unternehmer und Politik in der Bundesrepublik* (Suhrkamp, Frankfurt: 1985).

⁶⁰ Schmidt, *Die verhinderte Neuordnung*, p. 82: ‘Die Einführung der paritätischen Mitbestimmung in den entflochtenen Werken der Eisen- und Stahlindustrie im Februar 1947 ist also das Resultat des gewerkschaftlichen Drängens auf Demokratisierung der Wirtschaft, ebenso wie des Interesses der britischen Besatzungsmacht.’

of the British Labour government which was no stranger to the idea of workers' involvement in the management in nationalized industries.

Parallel debates: nationalization and codetermination in UK politics

Nationalization formed a major part of the election manifesto – *Let Us Face the Future*⁶¹ drafted by Herbert Morrison with the assistance of Michael Young – of the Labour government that came to power in July 1945. Between 1945 and 1950, it 'was responsible for nationalising the Bank of England, coal mining, electricity and gas, the whole railway system and a section of road transport, civil aviation and telecommunications, and finally, though ineffectually, the major part of the iron and steel industry.'⁶² Nationalization statutes were passed in 1946, 1947, and 1948, with little political or public opposition;⁶³ the only real opposition occurred in relation to the Iron and Steel Bill as 'the industry, unlike coal or the railways, was profitable; for another, it had a tradition of good public relations, and its trade union leaders were themselves understood to be lukewarm about public ownership.'⁶⁴ Nationalization of iron and steel was first proposed in 1946 by John Wilmot, Minister of Supply,⁶⁵ but was met with considerable controversy and opposition. It was suggested that 'in order to "retain the willing co-operation of the industry", the Government should not nationalise but should impose a "permanent statutory control".'⁶⁶ Such a compromise was favoured by both Wilmot and Morrison, who as Deputy Prime Minister in the Labour

⁶¹ Labour Party, *Let Us Face The Future* (London: 1945).

⁶² E. Eldon Barry, *Nationalisation in British Politics* (Jonathan Cape: 1965), p. 369. For a detailed account of the various nationalization statutes see R. A. Brady, *Crisis in Britain: Plans and Achievements of the Labour Government* (University of California Press, Berkeley, CA: 1950). For a critique of the policies see W. A. Robson, *Nationalised Industry and Public Ownership* (Allen: 1960); S. Pollard, *The Development of the British Economy, 1914–1950* (Edward Arnold: 1962); R. Miliband, *Parliamentary Socialism* (Allen and Unwin: 1960).

⁶³ Nationalization statutes include, *inter alia*, Bank of England Act 1946, Coal Industry Nationalisation Act 1946, Civil Aviation Act 1946, Electricity Act 1947, Transport Act 1947, and Gas Act 1948. See Eldon Barry, *Nationalisation*, at pp. 374–6 for a discussion of reactions to nationalization.

⁶⁴ Pelling, *The Labour Governments*, p. 83.

⁶⁵ For a more detailed account see *ibid.*, p. 83 onwards. Nationalization of iron and steel was considered highly complicated 'owing to the difficulty of separating out the manufacture of iron and steel from the other activities of the companies concerned.'

⁶⁶ *Ibid.*, p. 84.

government supervised the implementation of the nationalization programme, but was vehemently opposed by the Minister for Health, Aneurin Bevan, who argued in early summer 1947 that 'it would be difficult for the Government to insist on nationalising the industry of the Ruhr while retreating from the same policy inside Britain.'⁶⁷ A renewed attempt at nationalization was made in 1948 when a Bill prepared by Wilmot's successor – George Strauss – was introduced in Parliament. Bevin, who spoke out in favour of the Bill, adopted a similar argument to Bevan: failure to nationalize the British iron and steel industry would be 'inconsistent with the policy of seeking to promote the socialisation of the Ruhr steel industry.'⁶⁸ The Iron and Steel Act was eventually passed in 1949,⁶⁹ receiving Royal Assent on 24 November but, as a compromise, vesting day did not occur until 15 February 1951, after a general election which was won by the Labour Party with a small majority. Unlike the coal industry, the organization of the iron and steel industries was largely left intact, but the undertakings were transferred to, and vested in, the Iron and Steel Corporation of Great Britain.

The Labour government's programme of nationalization was based largely on the party's 1934 programme, entitled *For Socialism and Peace*,⁷⁰ and consolidated in the TUC's 1944 *Interim Report on Post-war Reconstruction*.⁷¹ The issue of labour representation had featured heavily in the debates preceding adoption of the 1934 programme. The TUC's Economic Committee – composed of a dozen trade-unionists, including Bevin – together with Hugh Dalton and Herbert Morrison as representatives of the Labour Party, had drafted a report in 1931 on 'Public Control and Regulation of Industry and Trade' which considered the question of labour representation on the boards of nationalized industries.⁷² The report adopted Morrison's vision of nationalization – a public corporation where members of the board were appointed by the relevant minister from among suitably qualified individuals – which he had attempted to put into practice in the London Passenger Transport Bill,

⁶⁷ *Ibid.*, p. 85.

⁶⁸ *Ibid.*, p. 87.

⁶⁹ For a detailed analysis of the Act see S. Langley, 'The Iron and Steel Act 1949', *Economic Journal* 60 (1950), pp. 311–22.

⁷⁰ Labour Party, *For Socialism and Peace* (London: 1934).

⁷¹ TUC, *Interim Report on Post-war Reconstruction* (London: 1944).

⁷² TUC, *Report on Public Control and Regulation of Industry and Trade* (1932), submitted to the TUC Congress at Newcastle, 1932.

proposed during the last year of the Labour government (1929–1931) in 1931.⁷³ Morrison objected to any form of statutory worker representation on management boards:

I was not convinced that the statutory right of the representation of labour in the industry would necessarily provide the best man from the ranks of labour; it would involve a difficult and embarrassing business of selection from the names submitted by the various Trades Unions in the industry; and if I conceded the statutory right of representation to labour in the industry, I should ... inevitably be involved in almost irresistible demands for the right of representation from other elements of interests.⁷⁴

His approach to labour representation had been heavily criticized in 1931 by the TGWU, where Bevin, as general secretary, was 'insistent that the Board should include representatives of labour chosen by the unions concerned, or at least statutory provision for consultation of the unions before the appointments were made.'⁷⁵

The same criticism arose again in relation to the TUC's 1931 report, where Bevin alone spoke out against the public corporation as being 'positively the worst form of public control.'⁷⁶ In doing so, he followed a TUC tradition of advocating worker representation in management. Until 1932, the TUC's standing orders had called for 'the General Council [to] endeavour to establish ... public ownership and control of natural resources and of services with proper provision for the adequate participation of the workers in the control and management of public services and industries.'⁷⁷ From 1932 onwards, however, reference was instead made to the public corporation and the 1931 report was adopted by the Congress.⁷⁸ Nonetheless, the issue of worker representation on the boards of nationalized

⁷³ The Bill was never adopted but a similar Bill – the London Passenger Transport Act – was passed by Ramsay MacDonald's National government in 1933.

⁷⁴ H. Morrison, *Socialisation and Transport* (Constable: 1933), p. 191.

⁷⁵ Bullock, *Bevin: Trade Union Leader*, p. 459.

⁷⁶ Note circulated to members of the Committee dated 21st December 1931. See Bullock, *Bevin: Trade Union Leader*, p. 510.

⁷⁷ See, for example, TUC Standing Orders, Appendix B, 64th Annual Report of the Trades Union Congress (London, 1932), p. 450.

⁷⁸ See Report of the TUC Congress 1932, p. 206. The shift which occurred within the TUC between 1931 and 1932 is described in Barry, *Nationalisation*, pp. 320–4 and Bullock, *Bevin: Trade Union Leader*, p. 459.

industry continued to arise at subsequent conferences of both the TUC and the Labour Party,⁷⁹ with Morrison and Bevin adopting opposing views. Even writing in 1944, Bevin criticized boards without worker representation as ‘unrepresentative, unresponsive and unlikely to pay much attention to the public interest.’⁸⁰ As Bullock explains:

Bevin’s antagonism towards Morrison was unconcealed. ... Socialism to Bevin meant something more than planning and public ownership; it meant a change in the status of the worker, the end of that exclusion from responsibility, the stigma of inferiority, which he had always regarded as the key to improving industrial relations.⁸¹

In arguing in favour of statutory worker representation on management boards, Bevin was supported not only by the TGWU but also by the Associated Society of Locomotive Engineers and Firemen (ASLEF) and the National Union of General and Municipal Workers (NUGMW), whose general secretary, Charles Dukes proposed that worker representatives should have a statutory right to fill 50% of the members of the boards of management.⁸² As a compromise, in its final version, the 1934 programme contained the principle ‘that wage earners of all grades and occupations have a right which should be acknowledged by law to an effective share in the control and direction of socialised industries which their labour sustains.’⁸³

The same questions over labour representation arose after the Second World War. However, the position adopted by the TUC and the Labour Party remained virtually unchanged from its pre-war position. As Dartmann points out:

In the end, ... , in spite of the fact that the discussion of labour’s position regarding the control and administration of industry had started with economic and industrial developments, and in spite of the fact that therefore economic and industrial development, control of industry, and labour participation were generically linked, this link was argumentatively reduced to the question of efficient management.

Efficiency became the major yardstick for the eventual success of nationalisation and

⁷⁹ For an overview of the debates see Barry, *Nationalisation*, pp. 320–2.

⁸⁰ Letter from Bevin to Attlee in response to the draft paper on ‘The Immediate Future of Financial and Industrial Planning’ dated 22 November 1944. Bevin papers II 4/12.

⁸¹ Bullock, *Bevin: Trade Union Leader*, pp. 514–5.

⁸² TUC Report, 1933, p. 369.

⁸³ Labour Party Annual Conference Report 1933, p. 205.

socialist policies. 'Efficiency' was once again reduced to the managerial and technical skills of the persons in charge, and consequently became the slogan with which the promoters of the public corporation rejected any claim for labour participation.⁸⁴

In its *Interim Report on Post-war Reconstruction*, the TUC confirmed that nationalized industries were to take on the legal form of public corporations and that '[T]rade unions shall maintain their complete independence. They can hardly do so if they are compromised in regard to Board decisions which are not considered to be in their members' interests by the fact of their representatives' participation in them.'⁸⁵

With hindsight it is clear that 'the question of trade-union and workers' participation in the management of the nation's industries had been an issue on which the TUC had differed from the Labour Government's nationalisation proposals.'⁸⁶ This contradiction is also obvious in the TUC's 1944 report when, at the same time as rejecting worker participation in management, it called for the 'democratisation of economic life' which required 'the trade union movement to participate in the determination of all questions affecting the conduct of an industry'. Nationalization legislation fell short of this aim and, in effect, adopted Morrison's policy: governing boards of nationalized industries were appointed by a minister 'from amongst persons ... having had experience of, and having shown capacity in, industrial commercial or financial matters, applied science, administration or the organization of workers.'⁸⁷ Any board members drawn from the trade-union movement were required to 'surrender any position held in, or any formal responsibility to, the Trade Union'⁸⁸ in order to preserve trade-union independence,⁸⁹ which would in turn ensure freedom of action in collective bargaining.

While nationalized industries were under a duty to establish machinery for the settlement of terms and conditions of employment, the wording of the relevant provisions was so vague that the obligation should be considered as good practice rather than a legal

⁸⁴ Dartmann, *Re-Distribution of Power*, pp. 58–9.

⁸⁵ TUC Report 1944, p. 411. See also D. N. Chester, 'Management Accountability in the Nationalised Industries' *Public Administration* 30 (1952), pp. 27–47, p. 35.

⁸⁶ TUC, *The History of the TUC 1868–1968*, p. 131. See also R. Dahl, 'Workers' Control of Industry and the British Labor Party' *American Political Science Review* 41 (1947), pp. 875–900, p. 875.

⁸⁷ S2 (3) Coal Industry Nationalization Act 1946.

⁸⁸ TUC Annual Report 1944, para. 104.

⁸⁹ *Ibid.*, para. 99.

requirement to engage in effective collective bargaining.⁹⁰ As such, ‘the only real claim to innovation in industrial relations in the nationalized industries can be found in the field of joint consultation’⁹¹ in the form of joint production boards, which were under a statutory obligation to consult with relevant trade unions on the establishment of permanent consultation machinery for safety, health, and welfare issues. Davies and Freedland suggest that ‘this form of participation was acceptable to the TUC since the machinery was under the control of the unions, did not embrace the matters that were central to collective bargaining and did not commit the unions to the decisions reached.’⁹² Apart from failing to guarantee the involvement of workers or their representatives in the regulation of nationalized industry, the proposed legal form – the public corporation – ‘ruled out ... any direct accountability of the board members (or even of some of them) to the workers employed in the industry, let alone any election by the workers of directors to the board of the nationalized corporation.’⁹³

Signs of discontent among trade unions and some Labour Party members over the absence of workers’ representation in the nationalized industries resurfaced after 1946,⁹⁴ when ‘a minority continue to press the claim for direct worker participation in the management of these industries.’⁹⁵ A resolution remitted to the general council of the TUC’s Brighton congress in 1946 pressed upon ‘the Government the desirability of making provision for workers’ participation at all levels in the management of the industry.’⁹⁶ At the 1947 congress, a resolution was passed unanimously which demanded full participation by workers, through their trade unions, in the management of nationalized industries.⁹⁷ At the Labour Party conference in 1948, a resolution was proposed which called for ‘the principle of workers’ participation through their trade unions in the direction and management of

⁹⁰ See, for example, s 46 Coal Industry Nationalisation Act 1946.

⁹¹ P. Davies and M. Freedland, *Labour Legislation and Public Policy* (Clarendon Press, Oxford; 1993), p. 70.

⁹² *Ibid.*

⁹³ *Ibid.*, p. 68.

⁹⁴ Sixteen resolutions presented at the Labour Party conference 1948, and eighteen resolutions submitted to the Labour Party conference 1949, dealt *inter alia* with issues of democratic control of nationalized industries and workers’ participation on boards of nationalized industries: Agendas of Labour Party conferences, 1948, pp. 18–19; 1949, pp. 15–17: Transport House Library.

⁹⁵ N. Chester, *The Nationalisation of British Industry 1945–51* (HMSO; 1975), p. 844.

⁹⁶ *Ibid.*, pp. 844–5.

⁹⁷ TUC Annual Report 1947, pp. 472–7, 519–24.

nationalized industry at all levels [to] be firmly adopted in practice'⁹⁸ on the basis that 'it is the negation first of all of Socialism and secondly of sanity itself to nationalise an industry and then leave the control of it in the hands of the Tories.'⁹⁹ Moreover it was argued that:

Something more than consultation must be given to the men. They should have the opportunity of appointment to managerial and supervisory positions. Only in that way are we going to get co-operation between the managerial and supervisory side and those who are supervised.¹⁰⁰

The Association of Engineering and Shipbuilding Draughtsmen, in seconding the resolution, argued that:

[T]o nationalise an industry is not the same thing as socialising it. ... We believe that the extension of the principle of industrial democracy is just as important as the extension of political democracy. ... In urging that workers employed in nationalized industry should participate in management we do so because we believe that that is fundamental for industrial democracy and will increase production.¹⁰¹

Morrison expressed the views of the government when he disagreed with the tenor of the resolution by calling for ministers to be given 'adequate time to consolidate, to develop, to make efficient or more efficient the industries which have been socialised in the present Parliament.'¹⁰² Thus the National Union of Mineworkers argued that:

We as a miners' organisation do not want to have people in the ridiculous position that we see on the Continent where the president or secretary of a miners'

⁹⁸ Labour Party Annual Conference Report 1948, pp. 167–72.

⁹⁹ *Ibid.*, pp. 166–7.

¹⁰⁰ *Ibid.*, pp. 168–9.

¹⁰¹ *Ibid.*, p. 168.

¹⁰² *Ibid.*, p. 122. The NUM and the TGWU agreed, and it has been suggested that they were 'too loyal to the Government to agree with the critics': Pelling, *The Labour Governments*, p. 92.

organization is also on the Coal Board running the industry, so that he has on occasion to pass a resolution to ask himself to give himself something.¹⁰³

Similarly, the TGWU followed Morrison's line of reasoning by pointing out that 'we have had eighteen months' experience of the running of socialised industry ... With the ultimate purpose of the resolution I am in full sympathy and full support, but you have to walk before you can run.'¹⁰⁴ It was agreed instead that the matter would be remitted to the Labour Party's Executive for 'further consultation with the Trades Union Congress.'¹⁰⁵

The issue of codetermination in management of nationalized industries was also raised by a number of trade unions with various government departments, and directly with the Prime Minister. A letter written by the National Union of Railwaymen in 1950 to the Minister of Transport opined that 'it is essential that the actual workers in the industry should have a greater participation in the management of the Railways.'¹⁰⁶ The TGWU – which had originally opposed the 1948 resolution – in a letter dated 21 September 1951 reiterated 'the view that in giving effect to the principle of public ownership full advantage should be taken of the knowledge, skill and experience of the workers and that in all appointments made in the nationalized industries proper regard should be had [to suitably qualified workers].'¹⁰⁷ In response, however, it was suggested that 'under present circumstances no action is necessary, but that after the Election whoever is Secretary of the Socialisation of Industries Committee might then consider whether this is a matter to be placed on the agenda.'¹⁰⁸ The general election of 1951 was however won by the Conservative Party, and the new government privatized the iron and steel industry in 1953.

Industrial democracy – different meanings

¹⁰³ Labour Party Annual Conference Report 1948, p. 170.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*, p. 170–1. See also Pelling, *The Labour Governments*, p. 92.

¹⁰⁶ Letter from J. B. Figgins, National Union of Railwaymen, to Alfred Barnes, Minister of Transport, 30 October 1950 CAB 21/2757, TNA.

¹⁰⁷ Letter from Arthur Deakin, general secretary TGWU, to Clement Attlee, 21 September 1951, CAB 21/2757, TNA.

¹⁰⁸ Letter from the Chancellor of the Duchy of Lancaster to the Cabinet Office, 11 October 1951, CAB 21/2757, TNA.

Thus in Germany, codetermination was introduced without nationalization, whereas in the UK nationalization was implemented without codetermination. This contrast was in part the result of a difference in the understanding of industrial democracy and of the role of trade unions.¹⁰⁹ The concept of industrial democracy was first explored by Beatrice and Sidney Webb who argued that industrial democracy should be understood in a two-fold manner:¹¹⁰ first, it has an internal dimension which refers to trade-union democracy,¹¹¹ and, second, it has an external dimension which they understood as effective collective bargaining.¹¹² Although the Webbs later included an element of workers' representation in management in their understanding of industrial democracy,¹¹³ this was merged with the idea of public ownership. As McGaughey points out, the Webb's approach 'envisaged one model of governance for all types of enterprise, as if one size might fit all. To socialise economic participation, they thought it necessary to socialise ownership.'¹¹⁴

Clegg elaborates three principles underpinning industrial democracy which, according to him, crystallized in the inter-war years: first, trade unions must be independent of the state; second, trade unions can only represent the industrial interests of workers; and, third, the ownership of industries is irrelevant to good industrial relations.¹¹⁵ Similar to the Webbs, Clegg argues that workers' representation in management or their involvement in the control of industry does not therefore form a fundamental underpinning of industrial democracy and is indeed 'unacceptable' as it threatens trade-union independence.¹¹⁶ Such a view clearly underpins the arguments for and against nationalization and the introduction of codetermination in the UK throughout the 1940s. Thus the main argument in favour of workers' or trade-unions' participation in management in the UK 'was not that the Unions in the industry would thereby take their share of managerial responsibility for the industry but

¹⁰⁹ For an overview of ideological developments in British and German trade-union movements see Dartmann, *Re-Distribution of Power*, ch. 2.

¹¹⁰ See S. Webb and B. Webb, *Industrial Democracy* (Longmans, Green and Co.: 1897).

¹¹¹ *Ibid.*, part 1.

¹¹² *Ibid.*, part 2.

¹¹³ S. Webb and B. Webb, *The History of Trade Unionism* (Longmans, Green and Co.: 1920), p. 760.

¹¹⁴ E. McGaughey, 'British Codetermination and the Churchillian Circle', *UCL Labour Rights Institute On-Line Working Papers* 2/2014, p. 22.

¹¹⁵ H. A. Clegg, *A New Approach to Industrial Democracy* (Blackwell, Oxford: 1960), pp. 21–5. For a broader overview see *idem*, *Industrial Democracy and Nationalization* (Blackwell, Oxford: 1951).

¹¹⁶ *Ibid.*, p. 22.

that those involved in making the managerial decisions would have a sympathetic understanding of the problems, needs and viewpoints of the individual workers.’¹¹⁷ This would however threaten trade-unions’ independence from the state and thereby restrict their ability to engage in free collective bargaining. As Chester explains:

The Unions did not want this, any more than did management, for their basic purpose was to bargain about wages and conditions. If they were part of management they would be bargaining with themselves, in other words, so far as the men were concerned they would be indistinguishable from management.¹¹⁸

Francis argues in a similar vein by suggesting that:

Union leaders saw nationalization as a means to pursue a more advantageous position within a framework of continued conflict, rather than as an opportunity to replace the old adversarial form of industrial relations. Moreover, most workers in nationalized industries exhibited an essentially instrumentalist attitude, favouring public ownership because it secured job security and improved wages rather than because it promised the creation of a new set of socialist relationships in the workplace.¹¹⁹

Codetermination in any form was not therefore seen as a desirable option for many in the Labour Party or among the majority of trade-unionists. Only Bevin seemed to approach industrial democracy from a different perspective when he argued in favour of workers being given increased responsibility in the management of their place of work. For the majority of the Labour Party, nationalization was regarded as sufficient to guarantee workers’ involvement in the governance of companies.

The concept of industrial democracy was translated in Germany as *Wirtschaftsdemokratie* by Naphtali writing in the 1920s. It was understood as the equivalent of the Webb’s concept of industrial democracy; however, in substance it was in fact very

¹¹⁷ Chester, *The Nationalisation of British Industry*, p. 848.

¹¹⁸ *Ibid.*

¹¹⁹ M. Francis, *Ideas and Policies under Labour, 1945–1951: Building a New Britain* (Manchester University Press: 1997), p. 82.

different. Thus *Wirtschaftsdemokratie* was defined as ‘a form of economic constitution, a democratic constitution in the economy as opposed to economic autocracy. ... The nature of this democracy presumes codetermination.’¹²⁰ German trade unions understood this as turning industrial servants into industrial citizens,¹²¹ which meant that capital and labour should be equals in the running of businesses. The reason given for this approach was that ‘the interests of the worker in the success and proper organization and management of his employer are at least as important as those of the employer and certainly more important than those of mere shareholders.’¹²² German trade unions thus associated codetermination with equality of workers and employers in the management of enterprises as well as offering the possibility of control of the employers coupled with the need to be involved in the regulation of workers’ terms and conditions of employment. Codetermination was considered as separate from and in addition to nationalization.¹²³ Historical factors also played a role in German trade unions’ embrace of codetermination after the war. As Dartmann explains:

[T]he development of codetermination ... owed its development mainly to the interpretation of the rise of Hitler the unions arrived at immediately after the war, in which they blamed big business alone and therefore uncritically failed to provide an assessment of their own roles in the critical period leading to the Third Reich.¹²⁴

The introduction of codetermination in and of itself was therefore considered a success by German trade unions, whereas from the perspective of the British military government,

¹²⁰ F. Naphtali, *Wirtschaftsdemokratie – Ihr Wesen, Weg und Ziel* (Verlagsgesellschaft des ADBG, Berlin: 1928), p. 14/1. *Wirtschaftsdemokratie* is defined as ‘eine Form der wirtschaftlichen Verfassung, die demokratische Verfassung in der Wirtschaft im Unterschied und im Gegensatz zur wirtschaftlichen Autokratie ... Das Wesen der Demokratie setzt ... Mitbestimmung voraus.’

¹²¹ F. Naumann, *Neudeutsche Wirtschaftspolitik* (Berlin: 1911), p. 294.

¹²² E. Jaffé, ‘Die Vertretung der Arbeiterinteressen im neuen Deutschland’ in F. Thimme and C. Leigen, *Die Arbeiterschaft im neuen Deutschland* (Hirzel, Leipzig: 1915), p. 111: ‘Das Interesse der Arbeiter an dem Gedeihen und damit an der richtigen Organization und Führung der Betriebe [ist] mindestens ebenso groß wie das der Unternehmer, sicher (aber) größer und lebenswichtiger als das der lediglich mit ihren Kapitaleinschüssen beteiligten Aktionäre.’

¹²³ See H. Böckler, *Die Aufgaben der deutschen Gewerkschaften in Wirtschaft, Staat und Gesellschaft* (DGB, Düsseldorf: 1949), p. 23.

¹²⁴ Dartmann, *Re-Distribution of Power*, p. 17.

influenced by a different understanding of industrial democracy, it was a stepping stone on the road to nationalization which, in Germany, was never completed.

Against this background, one must question whether the failure to institute a system of codetermination in the UK should be considered a missed opportunity for British trade unions. Frances O'Grady, general secretary of the TUC, writing in 2013 appears to answer this question in the affirmative when she argues that:

Arguably unions in this country [in the 1980s] were reaping the consequences of a strategic error made in failing to seize the opportunity of the European model of codetermination and industrial democracy. Ernest Bevin was acutely aware of the German system. As Foreign Secretary he played a large part in creating it. But alas not here. In 1945, we had an important opportunity to lift our gaze beyond the immediate task of improving terms and conditions and play a different role within the emerging mixed economy: giving workers a voice and a stake in strategic decision making, in the newly nationalised industries and the new welfare state. But it was one that we squandered. Rather than rising to the profound challenge of collective ownership – not just redistributing power to workers, but also to those who depended on the goods and services we produced – we chose instead to take the easy option.¹²⁵

Indeed, the absence of codetermination is increasingly bemoaned in the UK. Frances O'Grady emphasizes that trade unions should 'embrace industrial democracy and take up every chance to re-shape economic relationships.' She argues that 'economic strength demands economic democracy, a recalibration of the relationship between capital and labour.' In suggesting such reforms, she reverts to the German trade-unions' understanding of industrial democracy:

[I]ndustrial democracy poses a challenge to us in the trade union movement. It implies a role that is not just more ambitious, but more demanding, than the one we usually have

¹²⁵ F. O'Grady, *Attlee Memorial lecture*, 26 April 2013 available at <http://www.tuc.org.uk/union-issues/frances-ogradys-atlee-memorial-lecture>.

now. It means accepting responsibility, moving out of a comfort zone of short-termism, to taking the long view and championing the greater good.¹²⁶

With hindsight, British unions' unwillingness to embrace codetermination can be considered a short-sighted, if not necessarily surprising, approach to industrial relations. As Fox points out, the British labour movement was 'a reformist labour movement that, with its own deep interests in the existing order, constitutes one of the major blockages to radical social transformation.'¹²⁷ Acceptance of codetermination would have necessitated a 'fundamental shift' in the thinking of the labour movement which significant numbers of trade-union and Labour Party leaders were not prepared to undertake, preferring a 'conflictual' to a 'co-operative' strategy.¹²⁸ Ultimately, it is clear that Labour, in its nationalization programme in the 1940s, was 'unable to agree on what the ultimate purpose of nationalization should be: ... a means to facilitate greater industrial efficiency and modernisation, or ... a tool to achieve a fundamental transformation in the balance of class power.'¹²⁹

From an ideological perspective, there was a clash within the Labour movement throughout the 1930s and early 1940s between, on the one hand, Fabianism¹³⁰ – represented by large parts of the Labour Party – and, on the other hand, Guild Socialism¹³¹ – dominant among a number of trade unions. The lack of enthusiasm for direct workers' control in nationalized industries by the Labour Party in its 1945 manifesto represents a clear

¹²⁶ *Ibid.*

¹²⁷ A. Fox, 'Corporatism and Industrial Democracy: The Social Origins of Present Forms and Methods in Britain and Germany' (Paper given at the SSRC International Conference on Industrial Democracy, Churchill College, Cambridge: 4–8 July 1977), p. 19.

¹²⁸ *Ibid.*, p. 21. According to Fox, the "conflictual" strategy aims at improving membership welfare through unrestricted collective bargaining and the maintenance of a high level of mobilization of membership, while the "co-operative" strategy is pursued through constructive collaboration with employer and government, and depends less upon mobilization and the threat of conflict.'

¹²⁹ Francis, *Ideas and Policies under Labour*, p. 65.

¹³⁰ Fabianism rejected direct workers' control of nationalized industry, favouring instead exclusive parliamentary control. See Dahl, 'Workers' Control of Industry', *Am. Pol. Sc. Rev.*, pp. 876–82.

¹³¹ Guild Socialism aimed to 'strengthen social and economic institutions against the overriding power of the state' and favoured some form of worker participation in management. See *ibid.* While guild socialism was not advocated by all trade union leaders (see Clegg, *Industrial Democracy*, pp. 99–12), it was the preferred form of organization of a group of active trade-unionists and socialists including C. Dukes, H. Cliff and G. D. H. Cole. See Eldon Barry, *Nationalisation*, p. 323.

‘swing away from the syndicalist content of socialist thinking in the direction of Fabian ideas’.¹³² As a result, ‘[t]he justifications for each of the individual acts of nationalization specified in *Let Us Face the Future* were all based primarily on the need to release productive energies which had remained dormant under private ownership.’¹³³ The only exception to this was found in the iron and steel industry which had performed well under private ownership, thus making nationalization on purely economic grounds difficult to justify. The rationale was instead given as power;¹³⁴ the argument being that ‘steel represents the largest concentration of power in the economic system.’¹³⁵ Nonetheless, nationalization of these industries faced considerably more opposition. It must be questioned whether this would have been different had nationalization been justified on the grounds of empowering workers to share in certain responsibilities for the management of these industries.

British trade unions, for the most part, also did not share the same level of distrust of employers and the state as German trade unions after the Second World War. This is partly explained by British Guild Socialism which bore little resemblance to ‘the extreme anti-state views of Continental [European] syndicalist movements.’¹³⁶ The state was perceived in the UK, unlike in Germany, as being ‘an instrument of freedom and progress.’¹³⁷ Nonetheless, trade-unions’ narrow vision first became obvious when industries were privatized after the change of government in 1951, leaving workers with no role in the management of industry. Even in those industries which were not immediately privatized, the selection of board members was left to the individual minister concerned, thereby providing no guarantee that workers’ interests would be recognized. Such a scenario had been foreseen by those in the union movement arguing in favour of worker participation in management;¹³⁸ considered as

¹³² *Ibid.*, p. 875.

¹³³ Francis, *Ideas and Policies under Labour*, p. 72.

¹³⁴ See W. Fienburgh and R. Evely, *Steel is Power: The Case for Nationalization* (Gollancz: 1948).

¹³⁵ *Socialist Commentary* 12:15, December 1948, pp. 338–9.

¹³⁶ Dahl, ‘Workers’ Control of Industry’, *Am. Pol. Sc. Rev.*, p. 879.

¹³⁷ *Ibid.*

¹³⁸ For a more detailed overview of the arguments presented see Labour Party Annual Conference Report 1932, pp. 215 and 219; Labour Party Annual Conference Report 1933, pp. 206–7; TUC Annual Report, 1932, p. 380; TUC Annual Report, 1933, pp. 373 and 376; H. Clay, ‘Workers’ Control’, in C. Addison, *Problems of a Socialist Government* (Gollancz: 1933), p. 216; and, G. D. H. Cole and W. Mellor, *Workers’ Control and Self-Government in Industry* (Gollancz and New Fabian Research Bureau: 1933).

‘partial insurance against [untold harm coming to workers]’ in the case that ‘bureaucratic control over industry were to fall into the hands of an anti-trade union government.’¹³⁹ Such arguments were however routinely defeated.¹⁴⁰

Finally, the central role of collective *laissez-faire*¹⁴¹ in the historical development of British labour law undoubtedly played a role in trade-unions’ continued preference for collective bargaining as the mechanism to regulate worker–employer relations. However, in order for such an approach to succeed, industrial autonomy of employers and trade unions, and equilibrium between both parties, must be guaranteed. Once the autonomy of either party is undermined, through, for example, state intervention in industrial relations, collective bargaining as an effective mechanism for the governance of workplace relations can no longer exist. The changes in *inter alia* industrial structure and increasing regulation of industrial relations through law during the second half of the twentieth century has illustrated the weakness of the voluntarist approach:¹⁴² without an institutionalized role in the management of industry, such as in Germany, British trade unions rely primarily on industrial strength in order to represent workers. Although union density¹⁴³ is higher in the UK (26%) than in Germany (18%), German trade unions have greater influence in the regulation of the individual employment relationship through, *inter alia*, alternative

¹³⁹ Dahl, ‘Workers’ Control of Industry’ *Am. Pol. Sc. Rev.*, p. 889.

¹⁴⁰ For a more detailed overview of argument against workers’ control see the Labour Party Annual Conference Report, 1932, pp. 212–214 and pp. 221–223; the Labour Party Annual Conference Report 1933, p. 208; Morrison, *Socialisation*, chs 10–13; Cole, ‘Socialist Control of Industry’, p. 182; and, G. D. H. Cole, *The Next Ten Years in British Social and Economic Policy* (Macmillan: 1929), chs 7 and 8.

¹⁴¹ O. Kahn-Freund, ‘Labour Law’, in *idem*, *O. Kahn-Freund: Selected Writings* (Stevens), p. 8; Davies and Freedland, *Labour Legislation*, ch. 1; see also K. D. Ewing, ‘The State and Industrial Relations’, *HSIR* 5 (1998), pp. 1–31, p. 1.

¹⁴² This is also argued by Chris Howell in C. Howell, *Trade Unions and the State: The Construction of Industrial Relations Institutions in Britain, 1890–2000* (Princeton University Press, NJ and Oxford: 2005), ch. 5.

¹⁴³ Union density – defined as the proportion of employees who are union members – is only one way of measuring union strength. However, it is considered a key indicator of this. For data on German union density see the *ICTWSS: Database on Institutional Characteristics of Trade Unions, Wage Setting, State Intervention and Social Pacts in 34 countries between 1960 and 2012* compiled by J. Visser, Amsterdam Institute for Advanced Labour Studies (AIAS), Version 4, April 2013 University of Amsterdam (see <http://www.uva-aias.net/207>). For comparable figures in the UK see BIS, *Trade Union Membership 2012: Statistical Bulletin*, 2013, it stood at 26%.

mechanisms to collective bargaining,¹⁴⁴ such as codetermination, which are guaranteed by legislation.¹⁴⁵ One can therefore only conclude that the failure to institute a system of codetermination in the UK in the 1940s should be considered a missed opportunity for British trade unions.

In conclusion, the nationalization programme of the British post-war Labour government had a profound effect on German industrial relations; creating the necessary framework within which parity codetermination could be introduced. While nationalization in the German iron and steel industries was never achieved, codetermination has had a lasting and substantial impact on German trade unions and on the German labour law system. Parallels can be drawn with debates taking place at the same time in the UK over nationalization and workers' participation in management. However, historical differences between the British and German trade-union movements, as well as differences in the understanding of industrial democracy, resulted in the nationalization of the major industries in the UK without workers' involvement in the management of these industries. With the benefit of hindsight and in light of the changes that occurred in the regulation of British industrial relations in the second half of the twentieth century, the failure to institute a system of codetermination in the UK in the late 1940s must be considered a missed opportunity for British trade unions.

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¹⁴⁴ Even in the case of collective bargaining, however, Germany has a higher level of coverage due to industry-level bargaining than the UK, where collective bargaining takes place at company level. See L. Fulton, 'Worker representation in Europe' (Labour Research Department and ETUI; 2013) available at <http://www.worker-participation.eu/National-Industrial-Relations/Across-Europe/Collective-Bargaining2>.

¹⁴⁵ In addition to their involvement in the collective-bargaining process, German trade unions have a role to play in the process of codetermination in the enterprise through works councils which is guaranteed by legislation. See further W. Müller-Jentsch, 'Germany: From Collective Voice to Co-management', in J. Rogers and W. Streeck (eds), *Works Councils: Consultation, Representation and Cooperation in Industrial Relations* (University of Chicago Press, 1995), pp. 61–5.