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Legal systems as a determinant of FDI in South Asia

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Church-state relations in East Germany – Dr Christine R Barker, Freelance Researcher, Fife, Scotland £1000

My grant funded travel to Berlin and other parts of East Germany to conduct interviews as part of my investigation of the continuing influences of the former German Democratic Republic (GDR) on present-day church-state relationships in the area.

The state/church situation in Germany is unique in many respects. Despite the constitutional separation between church and state, the Protestant and Catholic Churches – which have almost equal numbers in Germany, but with very marked geographical variations (for historical reasons) – retain a powerful position and are entitled to levy (church) taxes and to determine the content of religious education in schools. The state collects church tax on behalf of the churches through payroll deductions. The special relationship between the two main churches and the state has a historical basis but now faces significant challenges.

The post-war division of Germany and establishment of a communist regime in the eastern part, formally established as the German Democratic Republic (GDR) in 1949, meant that those living in the east were subjected to a very different ideology from their western counterparts. Although all three constitutions which were developed in the 40-year history of the GDR grant every citizen the right to have a religious faith and to carry out religious acts, the GDR government soon began a systematic

campaign to erode the influence of the churches. As a result whole generations grew up knowing only Marxist ideology and this has had a lasting effect in the eastern part of the re-united Germany following the collapse of the communist regime in 1989.

More than a decade after reunification the majority of the population in the east is still without any church affiliation. In an age when church membership in many other parts of Europe is also in decline, this may not seem altogether surprising, but it is in stark contrast to the situation in the west. According to figures produced by the Protestant Church in Germany, 76% of the West German population are members of either the Protestant or the Catholic Churches, while in the east the figure is just 28%. There remains resistance in parts of eastern Germany, notably Berlin and Brandenburg, to the inclusion of religious education in the school curriculum and the GDR tradition of *Jugendweihe*, a ceremony denoting transition to adulthood in the lives of young people introduced as a secular alternative to a church confirmation service, continues to be extremely popular in East Germany. Numbers of baptisms, confirmations and church weddings in East Germany are low and many there feel that the tax-based promotion of certain systems of religion disadvantages religious freedom which includes the right to practise no religion.

These and other aspects of church-state relations in Germany are examined in a forthcoming article based on my findings in the *Political Quarterly*. e christine@drbarker.fsbusiness.co.uk

Legal systems as a determinant of FDI in South Asia – Dr Amanda Perry-Kessaris, Queen Mary, £1000

In the past, I have criticised the World Bank for asserting that legal systems are an important factor affecting the location of foreign direct investment (FDI); that predictable and efficient legal systems are the most effective in attracting FDI; and that efficiency and predictability are, in the opinion of investors, best achieved by adopting a 'western-style' legal system in which government and bureaucratic discretion are limited, laws are enforced consistently, corruption is low and the judiciary and bureaucracy are independent from politicians.

In 1997–2001, I tested these claims in Sri Lanka and found them to be unsubstantiated in a number of respects. The nature of the legal system did not seem to be a determinant of location for most investors and most could see benefits to a legal system which deviated from the western-style model.

In recent years, the bank has made great strides both in subjecting its assertions to empirical testing and thereafter in acknowledging that some investors might not follow this model. For example, it now argues that some investors benefit from legal systems which they can 'capture' (see www.worldbank.org/wbi/governance).

But there is still a need for more a more nuanced and qualitative understanding of the relationship between FDI and host state legal systems. In an effort to address this gap, my current research focuses on the role of legal systems as a mediator of relations between states, civil society and foreign investors.

I used an SLSA grant towards a three-week research trip to Bangalore, India in April 2003. There I conducted semi-structured interviews (with foreign investors and their advisors, civil society representatives and government officials), collected secondary materials and administered the second round of a postal survey of foreign investors. To date, my analysis of interview data has focused on the perspective of foreign investors. The following key findings have been suggested thus far:

- At the pre-investment stage, foreign investors in Bangalore seem to be better educated about the local legal system than are those in Sri Lanka. However, they seem to place similarly little emphasis on the legal system as a determinant of location.

- This may to some extent be explained by the fact that foreign investors seem to avoid the Indian legal system by not going to court; use locals as a 'buffer' between themselves and the courts, bureaucrats and politicians; and keep a low profile.
- Some investors seem attracted to the fact that law enforcement is inconsistent due to bureaucratic discretion, political interference in bureaucratic decisions and corruption.
- This may be because some investors see that they can control these forces (bureaucratic discretion, political interference, corruption) ensuring desirable, if inconsistent, results.

These findings have been presented at the University of Groningen and the LSE. They will also be presented in the globalisation stream at SLSA 2004 Glasgow. The postal survey is not yet complete, but results will be published in due course, along with an analysis of civil society and state perspectives thrown up by interviews and secondary research. e a.j.perry-kessaris@qmul.ac.uk

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Endnote: Untoward – Peter Goodrich