From Drift to Layering

The Historical Development of Job Security Regulations in Western Europe

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This paper analyses business and trade union strategies in the reform of job security regulations. It is argued that trade unions are the main political actor pushing for the expansion of job security regulations, but given employers' opposition, they can enforce better protection against dismissal only in exceptional periods (e.g. in the aftermath of World War 2). Once first restrictions were in place, employers took advantage of their economic and informational power at the workplace level to circumvent regulations. Trade unions combated this institutional drift by reducing the level of discretion awarded to employers in interpreting existing regulations. Taking advantage of a period of labor movement strength in the late 1960s and early 1970s, the unions enforced new regulations that left as little as possible to the discretionary judgment of employers and that awarded unions an important role in the administration of dismissals that they could use to monitor employers' behavior. After the veto power of unions has begun to decline in recent decades, unions face the possibility of displacement of job security regulations. They react to this new strategic situation by consenting to certain reforms, while protecting the interests dearest to them. More concretely, trade unions continue to fight any attempt at deregulating job security in the case of open-ended contracts. However, they accept the continuous deregulation of temporary employment. The result of this process of gradual institutional change is an institutional dualism through layering. Trade unions consent to two-tier labor market reforms because this allows them to protect the interests of their members (mostly workers on open-ended contracts) and their institutional involvement in the administration of dismissals (which is typically linked to open-ended contracts). In contrast, employers support this gradual institutional change through layering because it gives them access to a pool of cheap and flexible labor without undermining the cooperative workplace relationship they enjoy with their core workforce of skilled workers.

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Introduction

Job security regulations (JSR) are restrictions placed on the ability of employers to use labor. In particular, JSR restrict the managerial capacity to dismiss employees or to replace workers and use new forms of employment such as fixed-term contracts when hiring new workers (Regini 2000: 16). Economists are generally critical of JSR, which for them are a source of economic inefficiency and an obstacle to job creation (cf. Skedinger 2010). They delay the adaptation of personnel capacity, make it more difficult to sanction slackers, accelerate the substitution of labor by capital, reduce transitions between employment and unemployment, and increase wages (Büchtemann 1993: 9-12; Sels and van Hootegem 2001: 328-330).

However, there are also important advocates of JSR, thus making them the perhaps most controversial labor market institution (Blanchard and Tirole 2003: 2). For instance, some authors emphasize the social protection function of JSR (Esping-Andersen 1999; Bonoli 2003; Rueda 2007). In these accounts, JSR protect labor market insiders, and by extension family breadwinners, against job loss.[1] Even more importantly, JSR fundamentally shape the balance of power between capital and labor (Fahlbeck 1984; Hepple 1992; Golden 1997; Emmenegger 2013). JSR restrict managerial control over the workplace by imposing rules with regard to working conditions and trade union representation. In contrast, the unrestricted freedom to hire and fire at will puts capital in a very strong bargaining position. It grants employers complete freedom in choosing their workforce and in defining the working conditions. Put differently, the ability to hire and fire at will anchors management's "control over wage and hours, as over all labor matters" (Orren 1991: 176).

The reform of contested institutions, such as JSR, involves considerable struggle and conflict. They rarely reflect functional needs (Campbell 2010); rather, they are the political legacies of historical struggles. This conceptualization of institutions points to the importance of a genuinely political explanation for the historical development of JSR.

The development of JSR in Western Europe is characterized by an uneven and complex process of institutional reproduction and change. Leaving important cross-national differences aside for the moment, first significant JSR were enacted in the immediate aftermath of World War 2 (Vogel-Polsky 1986).[2] After a long period of institutional stability, a second regulatory wave occurred in the late 1960s and early 1970s, a period characterized by the resurgence of class conflict (Crouch and Pizzorno 1978). The 1980s witnessed the shift of attention from the regulation of open-ended contracts to the regulation of temporary employment (Countouris 2007). As most Western European countries struggled to dismantle dismissal protection despite mass unemployment, governments turned to the deregulation of temporary employment to create labor market flexibility. The resulting two-tier reforms led to dualised labor markets in which open-ended contracts are still heavily protected, while temporary employment has been significantly deregulated (Emmenegger et al. 2012).

[1] Labor market insiders benefit from secure employment, while labor market outsiders are either unemployed or hold jobs characterized by low levels of protection and low salaries (Rueda 2007).

[2] Germany is a special case because already World War 1 led to a significant reform of dismissal protection. The 1920 Works Council Act, a direct consequence of the radicalized political climate in post-war Germany, was the first far-reaching restriction of the employers' right to hire and fire at will (Vogel-Polsky 1986; Emmenegger and Marx 2011). However, World War 2 also led to new regulations that culminated into the 1951 Dismissal Protection Act that significantly increased protection against dismissal.

How can we account for this uneven process of institutional reproduction and change? In this paper, I develop, based on recent institutionalist scholarship, a political explanation of the historical development of JSR. In a nutshell, I argue that trade unions are the main political actor pushing for the expansion of job security regulations, but given employers' opposition, they can enforce better protection against dismissal only in exceptional periods (e.g. in the aftermath of World War 2). Once first restrictions were in place, employers took advantage of their economic and informational power at the workplace level to circumvent regulations. Trade unions combated this institutional drift by reducing the level of discretion awarded to employers in interpreting existing regulations. Taking advantage of a period of labor movement strength in the late 1960s and early 1970s, the unions enforced new regulations that left as little as possible to the discretionary judgment of employers and that awarded them an important role in the administration of dismissals that they could use to monitor employers' behavior.

However, in recent decades, the veto power of unions has diminished. As a result, unions face the possibility of retrenchment of dismissal protection. They react to this new strategic situation by consenting to certain reforms, while protecting the interests dearest to them. More concretely, trade unions continue to fight any attempt at deregulating job security in the case of open-ended contracts. In contrast, they accept the continuous deregulation of temporary employment. The result of this process of gradual institutional change is an institutional dualism through layering. Trade unions consent to two-tier labor market reforms because this strategy allows them to protect the interests of their members (mostly workers on open-ended contracts) and their institutional involvement in the administration of dismissals (which is typically linked to open-ended contracts). In contrast, employers support this gradual institutional change through layering because it gives them access to a pool of cheap and flexible labor without undermining the cooperative workplace relationship they enjoy with their core workforce of skilled workers.

The theoretical argument, discussed in detail in section 2, is supported by empirical evidence on the historical development of JSR in eight Western European countries since the immediate post-war years (Denmark, France, Germany, Great Britain, Italy, the Netherlands, Sweden, and Switzerland). This set of diverse countries includes the four 'pathway' cases typically analyzed in comparative political economy research. As Hall (2007: 41) notes, France, Germany, Great Britain, and Sweden "display much of the institutional variation relevant to contemporary typologies of capitalism". In addition, this set of cases allows for the analysis of deviant cases, i.e., cases that deviate from identified cross-case relationships. Denmark and Switzerland are the only two coordinated market economies that are characterized by low levels of JSR (Estevez-Abe et al. 2001). In a similar vein, the Netherlands is a deviant case because the development of Dutch JSR does not seem to correspond to any of the three causal pathways to high levels of JSR identified by Emmenegger (2011). As a result, the analysis of these diverse eight countries should provide crucial insights into the historical development of JSR in Western Europe.

The paper is structured as follows: In the next section I develop based on recent historical-institutionalist scholarship a theoretical explanation that can account for the uneven and complex process of institutional reproduction and change that characterizes the development of JSR. Subsequently, I provide a detailed comparative historical analysis of the politics of JSR in eight

Western European countries from the post-war years to the onset of the financial crisis in late 2007. A final section concludes.

Explaining institutional change: a historical-institutionalist account

How can we explain the historical development of JSR in Western Europe? I start from the premise that institutions like JSR are permanently contested, in particular because they influence the balance of power between capital and labor. Most importantly, JSR protect union representatives and members against arbitrary dismissals (Golden 1997). If not for dismissal protection, employers who are hostile towards unions and collective bargaining could simply fire all union members and representatives (Orren 1991). In addition, JSR are a source of power. For instance, successful campaigns to improve protection against dismissal can enhance the job security and welfare of workers represented by unions (logic of membership). Potentially even more important, dismissal protection can give unions an important role in the administration of dismissals (Davidsson and Emmenegger 2012). This role may entail the right to be consulted in case of dismissals, the right to bargain over the selection of employees to be dismissed, or the right to veto dismissals. In any case, unions gain a say in managerial decisions (logic of influence).[3]

This view implies that unions (and their political allies) must force JSR upon reluctant employers (and their political allies). However, in all Western European countries unions are typically in a weaker position than business (Lindblom 1977; Korpi 1983). Therefore, unions must hope for periods in which their power resources temporarily exceed employers' power resources. For instance, the two world wars created exceptional circumstances that gave rise to critical junctures, which may be defined as "relatively short periods of time during which there is a substantially heightened probability that agents' choices will affect the outcome of interest" (Capoccia and Kelemen 2007: 348). In the immediate post-war period, the combination of economic turmoil, left wing empowerment (and radicalization), and right wing legitimacy crisis created a fertile ground for radical labor market reforms (Sassoon 2010). These considerations lead me to my first proposition:

> *Proposition 1:* Trade unions push for the expansion of JSR, but given employers' opposition, they can enforce better JSR only in exceptional periods (critical junctures).

If JSR are typically forced upon reluctant employers, they are likely to reflect "foundational conflicts of interest" (Koreh and Shalev 2009: 555). Put differently, JSR are historical legacies of power struggles and permanently contested by those that disapprove of the institutional status quo (Campbell 2010).[4] In a similar vein, institutions are means by which political winners pursue their own interest at the expense of political losers (Moe 1990). For instance, dismissal protection allows unions to create local branches in companies and, in some cases, to influence personnel policy. Hence, I expect JSR to be permanently contested.

[3] I expect unions, and not political parties, to be the main driving force behind the expansion of JSR. This is not to imply that unions are the only relevant actors. However, as I argue below, the unions' strategic considerations are most crucial to understand reform trajectories.

[4] This is also true in times of economic boom. Although JSR are less pressing in times of labor shortage, employers are still likely to prefer their dismantlement. For unions, the situation is similar. Labor shortage makes the issue of JSR less pressing, but unions have little reasons not to support them. As a result, economic boom periods are likely to reduce the political saliency of JSR but not change the actors' preferences.

Once first restrictions have been enacted, I expect employers to push for their deregulation. However, outright deregulation might not always be a possible option because the political opposition is too strong for any deregulation initiative to succeed. In such situation, I expect employers to look for alternative ways to increase labor market flexibility.

According to recent historical-institutionalist scholarship, proponents of reform often try to change the effectiveness of institutions by intervening at the implementation stage of regulations (cf. Hacker 2004; Mahoney and Thelen 2010). Regulations are virtually always incomplete and thus leave considerable room for interpretation and discretion (Williamson 1990). In the case of contested institutions such as JSR, this ex post governance stage is particularly important. As Moe (1990) emphasizes, both political winners and losers are concerned with the connection between institutions and effectiveness. Since institutions work to the benefit of political winners, they are interested in institutions that ensure that their favored policies are carried out as effectively as possible. In contrast, political losers can be expected to press for institutions that depart from effective performance. The political winners thus face the strategic problem of keeping institutions on target, i.e. "of keeping them from drifting" (Moe 1990: 226). In contrast, political losers have a strong interest in maximizing institutional ambiguity to allow for deviations.

In a recent contribution, Mahoney and Thelen (2010) have emphasized the interplay of these two variables, political power and institutional ambiguity. In their account, the relative power resources of opponents of reform (power) and the level of discretion in the interpretation and enforcement of institutions (ambiguity) shape the strategies of proponents of reform (employers in the case of JSR). Given these two contextual factors, proponents of reform can resort to four different strategies of institutional change: (1) *conversion* which denotes the redeployment of existing institutions to new purposes; (2) *drift* which occurs when rules remain formally the same but their impact changes as a result of shifts in external conditions; (3) *layering* which refers to the process of attaching new elements to existing institutions, thereby changing the status of existing institutions; and (4) *displacement* which denotes the removal of existing rules and the introduction of new ones.

Table 1 shows how the level of opposition to proposals for institutional change and the level of discretion in the interpretation and enforcement of institutions shape the choice of strategy for institutional change. For instance, the strategies displacement and conversion are only possible if veto possibilities are weak. It is impossible to dismantle an institution (displacement) or to deliberately use an institution for new purposes (conversion) if opponents have plenty of opportunities to block this process. The strategies drift and layering are different because rather than changing an institution, they imply that new elements are attached to existing institutions that may gradually change the status and structure of the existing institution (layering) or that political actors refrain from adapting an existing institution to changes in external conditions (drift).

Table 1: Contextual and institutional determinants of institutional change

		Characteristics of the targeted institution	
		Low level of discretion in interpretation/enforcement	High level of discretion in interpretation/enforcement
Characteristics of the political context	Strong veto possibilities	Layering	Drift
	Weak veto possibilities	Displacement	Conversion

Source: Mahoney and Thelen (2010: 19).

The second dimension concerns characteristics of the targeted institution, in particular the level of discretion in the interpretation and enforcement of rules. Institutional change by means of conversion and drift is not possible if there is no room for interpretation. Both strategies imply that an institution is flexible enough to be used for new purposes, either by deliberately changing the purpose of the institution (conversion) or by deliberately neglecting to follow the spirit of the rules on the ground (drift). In contrast, the level of discretion in the interpretation and enforcement of rules does not play a role in the case of the strategies of layering and displacement. In both cases, the existing institution is not used for different purposes. Rather, political actors add a second layer (layering) or dismantle the institution altogether (displacement).

Mahoney and Thelen's (2010) model points to possible strategies employers can use to increase labor market flexibility once first restrictions are in place.[5] Given the unions' opposition to any significant retrenchment of JSR, the model suggests that employers are likely to take advantage of the discretion in the interpretation and enforcement of rules. In particular at the workplace employers have significant economic and informational advantages over unions. They can use these power advantages over unions to continue their pre-war (and pre-regulation) employment strategies of hiring and firing at will. This strategy is possible because the normalization of post-war politics and the application of nationally devised rules at the (local) workplace level constitute a shift in external conditions that allows for institutional drift, which is the result of differences between formal rule changes and behavioral changes. Instead of adapting their behavior to the new formal regulatory regime (created in the immediate post-war period), employers circumvent regulations by taking advantage of institutional ambiguity. These considerations lead me to my second proposition:

> *Proposition 2:* Once first restrictions are in place, employers take advantage of institutional ambiguity to deviate from formal rules (institutional drift).

Institutional drift is of course not in the interest of proponents of dismissal protection such as trade unions, so they can be expected to look for responses to this new situation. In the logic of the model shown in Table 1, proponents of dismissal protection are likely to demand a reduction in the level of discretion in the interpretation and enforcement of rules. In particular, political actors interested in keeping institutions from drifting are advised to push for new regulations that leave as little as

[5] I do not understand these two dimensions as dichotomies but as a two-dimensional space in which strategies can vary over time. Veto possibilities can increase, the level of discretion in the interpretation of rules can decline, and so forth. As a consequence, I expect the type of institutional change to vary over time and with the political context (but see van der Heijden 2011: 238-239). In my reading, Mahoney and Thelen's (2010) model allows for patterns or sequences of types of gradual institutional change although this point is not explicitly discussed. Several of the contributions to the volume edited by Mahoney and Thelen, however, explicitly make claims about sequences of gradual institutional change (e.g. Falleti 2010; Sheingate 2010).

possible to the discretionary judgment of proponents of reform and allow them to monitor the interpretation and enforcement of regulations (Moe 1990). Hence, the third proposition is as follows:

> *Proposition 3:* Unions fight institutional drift (1) by minimizing employers' discretion in the interpretation and enforcement of rules and (2) by installing bodies that monitor employers' behavior.

Once the room for interpretation is minimized and employers' behavior properly monitored, institutional drift is no longer a promising option. In such situation proponents of reform have, following the model by Mahoney and Thelen (2010), two strategies left: As a function of the strength of opponents to reform, they can either opt for institutional layering (strong opponents) or the displacement of the institution (weak opponents). In the case of JSR, layering implies the creation of new contractual forms such as fixed-term contracts that provide more numerical flexibility than standard employment relationships. In this case, the regulation of open-ended is not changed; rather, the reforms lead to two-tier labor markets that distinguish between insiders with protected jobs and outsiders in precarious employment.

In contrast, displacement implies the removal of existing regulations and the introduction of new, more flexible ones. In the context of this analysis, I define displacement in rather broad terms, encompassing processes of institutional breakdown, erosion, or dismantling by active removal and limiting of existing institutions (see Steinlin and Trampusch 2012 for an insightful discussion).[6] Hence, in the case of JSR, displacement implies the (abrupt or stepwise) deregulation of open-ended contracts.

Facing employers' demands for flexibility, unions face a strategic dilemma: Given their interests, unions might be best served to fight any deregulation initiative. However, complete opposition to reform is a risky strategy, in particular in recent decades that are characterized by an ever-increasing power disparity between employers and unions (Frieden 2006; Streeck 2011; Emmenegger et al. 2012). Most importantly, complete opposition carries the risk of failure. In this situation, unions would have few means left to influence the reform. In this situation, the likely outcome would be displacement. In addition, such a strategy might move the role of unions to the center of attention. If trade unions are perceived to be the main obstacle to necessary reform, deregulatory activities may first target the position of unions before they refocus on public policy-making.

Hence, unions might be better served by showing some basic willingness to compromise and to act 'responsibly' given employers' proclaimed need for labor market flexibility. A compromise strategy has the additional advantage of securing influence on the direction of change (Moe 1990: 229). But what would be the unions' compromise proposal? Essentially, unions can offer to allow some limited deregulation of both open-ended and temporary contracts, of open-ended contracts only, or, finally, of temporary contracts only. The first two options correspond to softer versions of displacement compared to the one discussed in the previous paragraph. The third option leads to a two-tier labor market and is, as I argue below, likely to be the unions' preferred choice.

[6] This definition of displacement goes beyond the more narrow understanding of displacement that emphasizes the slowly rising salience of subordinate relative to dominant institutions (Streeck and Thelen 2005: 31).

Unions have both organizational and representational interests in defending dismissal protection in case of open-ended contracts (Davidsson and Emmenegger 2012, 2013). As regards organizational interests, JSR often give unions an institutional role in the administration of dismissals.[7] These regulations are thus of fundamental importance to unions because this institutional role in the administration of dismissals often makes employers dependent on union cooperation in workforce reductions and thus allows unions to extract benefits in return for cooperation. For instance, their institutional role allows unions to negotiate the compensation of workers in the form of redundancy pay and training measures. In addition, their institutional role allows unions to represent dismissed workers in court and protect union delegates against dismissal (Davidsson 2011). Crucially, the unions' role in the administration of dismissals is almost exclusively linked to the regulation of open-ended contracts because the unions' administrational involvement typically concerns the number and selection of workers to be dismissed, the level of redundancy pay, the development of social plans, or the right to represent dismissed workers in court. In contrast, unions play little role in the case of temporary contracts.

As regards representational interests, unions must represent their members' interest in welfare maximization to justify membership, for instance by protecting workers against dismissal (Schmitter and Streeck 1999). Given the overrepresentation of workers in standard employment relationships among the union rank and file (Ebbinghaus 2006), unions are more likely to agree to reforms that increase labor market flexibility at the expense of atypical workers if this implies that they can prevent reforms that disadvantage their core clientele, i.e. workers on open-ended contracts (Rueda 2007). Put differently, if under pressure to allow for more labor market flexibility, unions are likely to prioritize the interests of their members and thus assent to two-tier labor market reforms. Hence, *both* organizational and representational interests point to the same conclusion[8], which leads me to my fourth proposition:

> *Proposition 4:* Under pressure to allow for labor market flexibility, unions assent to the deregulation of temporary employment in order to protect their organizational and representational interests (institutional layering).

This pattern of reform corresponds to a larger trend that Emmenegger et al. (2012) have called dualization. These authors argue that structural drivers, such as deindustrialization and globalization, increase the pressure on the political-economic system to deregulate the labor market. Political actors react to these pressures by developing policies that differentiate between insiders and outsiders. Hence, the political system no longer attempts to provide universal policies (same rules for everybody) but instead accepts that some deregulation is indeed necessary and opts for a solution that leaves a core of insiders protected, while a group of outsiders carry the burden of economic adjustment. In the case of JSR, this view implies that many Western European countries respond to

[7] The most prominent example is probably the Swedish 'last in, first out' principle in case of dismissals for economic reasons. Swedish employers are not free to dismiss workers of their choice, but have to dismiss the workers with least seniority. However, the 'last in, first out' principle is optional in the sense that derogations to the principle can be negotiated between unions and employers. This puts unions in a very strong bargaining position (Fahlbeck 1984).

[8] Obviously, organizational and representational interests need not always lead to the same conclusion. For instance, Clegg (2012) shows that Belgian unions' organizational interests induce them to push for a better integration of labor market outsiders in the unemployment insurance system.

the twin challenge of globalization and deindustrialization by selectively deregulating JSR. While temporary employment is to provide the requested flexibility in the labor market, open-ended contracts remain largely untouched.

Contested institutions: the reform of job security regulations since the post-war years

In this section, I document the historical development of JSR in eight Western European countries. The discussion is organized in five chronological periods: the immediate post-war period, the economic recovery period in the 1950s and 1960s, the resurgence of class conflict in the late 1960s and early 1970s, the catalytic conflict between the British Conservatives and the trade unions in the late 1970s and 1980s and, finally, the period of two-tier reforms from the mid-1980s onwards. Due to space considerations, this section is unlikely to do justice to these often conflict-ridden and protracted political processes, in particular with regard to cross-national differences. Nevertheless, I hope that the following pages are sufficiently detailed to demonstrate the strategic interaction between unions and employers in the historical development of JSR (for a more detailed discussion see Emmenegger 2013).

The expansion of job security regulations in the immediate post-war period

World War 2 had unequal effects on Western European countries. Among the eight countries covered by this analysis, the war led to major economic crises in France, Germany, Italy, and the Netherlands, but not in Denmark, Great Britain, Sweden, and Switzerland. In a similar vein, the war left much of the political right discredited due to warmongering (Germany and Italy) or collaboration with the occupants (France and to some extent the Netherlands).[9] Finally, the political left emerged stronger from the conflicts due to its important role in national resistance movements and the role of the Soviet Union in defeating Nazi Germany. Hence, in the immediate post-war period, the window for institutional change was wide open, in particular in France, Germany, Italy, and the Netherlands.

The (radicalized) political left had thus a disproportionate influence on public policy-making in the immediate post-war period until the onset of the Cold War in 1947 began to shift the political center of gravity back to the center. In this period, national unity governments consisting of left (including communist) and center-right (often Christian democratic) parties passed a series of acts that significantly increased protection against dismissal in France, Germany, Italy, and the Netherlands. The most known examples are the 1945 Special Decree on Labor Relations in the Netherlands and the 1951 Dismissal Protection Act in Germany (van Arkel 2007; Emmenegger and Marx 2011).[10] Other examples include the three ordinances passed in 1945 in France which introduced the public authorization of dismissals for economic reasons and gave work committees a say in the selection of

[9] Denmark is a special case here. Although occupied by Nazi Germany, the economic and humanitarian consequences of World War 2 were not as dramatic as in, say, the Netherlands. By 1946 the Danish economy had already recovered to pre-war levels (Maddison 2010). Moreover, passive collaboration with the German occupants was not restricted to the political right (the sole exception were the Communists). In fact, in the first post-war election Danish voters mainly punished the Social Democrats for their collaboration with the German occupants (Christiansen 1958: 15; Sassoon 2010: 119-120).

[10] The German Dismissal Protection Act was passed relatively late (1951) considering the changing political climate in the post-war period (cf. the announcement of the Truman Doctrine in March 1947). However, Germany is a special case given its central role in World War 2, its division, and the occupation by the allied forces. Hence, it took much longer to return to 'normal' politics.

workers to be fired and the temporary ban on dismissals in Italy until 1947 (Herz 1954; Ferrera and Gualmini 2004).

The unions and the radical left were the driving force behind the extension of dismissal protection in these countries. This is most clearly the case in Germany where the Dismissal Protection Act was the result of negotiation between unions and the employers (Emmenegger and Marx 2011). However, this is also true for the other three countries. Better protection against dismissal was a prominent demand of the communist-led resistance movements in France and the Netherlands (Windmuller 1969: 267; Hepple 1986: 382) and subsequently enacted by national unity governments immediately after the war. In Italy, the Christian Democrats led by Alcide de Gaspari took advantage of the shift in the international political climate (cf. the Truman Doctrine from March 1947) to throw the Communists out of the national unity government and to repeal the dismissal ban. However, the ban on dismissals remained in fact in effect until 1950 in some Italian regions and firms due to the pressure by the communist-dominated Italian Confederation of Labor (Edelman 1960: 48).

Taking advantage of institutional drift to achieve flexibility in the 1950s and 1960s

In the early 1950s, workers in France, Germany, Italy,[11] and the Netherlands benefitted from significant protection against dismissal, while British, Danish, Swedish, and Swiss employers faced virtually no restrictions on their ability to hire and fire at will. However, protection against dismissal in the former group of countries was stronger on paper than in reality. In fact, protection against dismissal turned out to be more limited than the unions had anticipated. The work councils had no real say in the firms, the public authorities were dependent on employer documentation when deciding over dismissals for economic reasons, and the temporary bans expired and were not replaced. Representatives of the labor movement soon began to complain about the ineffectiveness of JSR.

For instance, Edelman (1960: 49) writes about Italy that "individual employers, in the absence of effective local union organizations, do not always live up to the terms of these agreements [between unions and employers]. Only strong, well-led and properly financed unions could make them so". In the Netherlands where both employers and employees need permission from the district employment office to terminate employment relationships, Windmuller (1967: 43) observes that "employer applications have consistently won approval more frequently than employee applications. That raises a question of discrimination." According to Havinga (1994), the employers' higher success rates were largely due to the fact that employers monopolized the relevant information and were not sufficiently challenged by the district employment offices.

In Germany, works councils were generally bypassed (Rogowski 1994: 73-74; Müller-Jentsch 1995: 54). Moreover, employers were typically successful in avoiding the reinstatement of wrongfully dismissed workers. Clark (1971: 418) reports that only about "one-third of all cases […] are ended by reinstatement of the workman". Blanke (1994: 215-216) writes that "a number of loopholes" made the Dismissal Protection Act "inadequate". Finally, Clark (1971: 409) describes French JSR as "weak

[11] In Italy, two national collective agreements played an important role, next to statutory regulations, in providing protection against dismissal. In particular, two agreements from 1950 defined selection rules in case of dismissals for economic reasons, introduced compensation payments in case of arbitrary dismissals, and gave local unions consultation rights (Herz 1954: 316-317; Edelman 1960: 53; ILO 1961: 53).

and ineffectual" and with stronger focus on "the sanctity of the employers' proprietary and contractual rights than elsewhere". The effectiveness of French regulations was further reduced by the fact that in most cases the employee carried the burden of proof. Since it is in practice often difficult, if not impossible to prove the true reasons for a dismissal (Clark 1971: 410), French workers had, despite the statutory regulations, no real protection against arbitrary dismissals before the 1970s (Le Goff 2004: 401-402).

Hence, JSR in the first decades after World War 2 were characterized by institutional drift. Drift denotes how the impact of institutions changes as a result of shifts in the external conditions even though the rules remain formally the same (Hacker 2004: 246; Streeck and Thelen 2005: 24-26). In the case of JSR, institutional drift occurred because employers still had enough discretion in the workplace to circumvent regulations and works councils. After the short period of post-war radicalization during which most of the new acts were passed was over, employers were again able to do as they pleased on the workplace level. This employer behavior resulted in accusations by unions that employers systematically violated the spirit of the post-war settlement (Sassoon 2010). Often, however, employers simply took advantage of the level of discretion in the interpretation and enforcement of rules to maximize their managerial authority.

Of course, drift was also made possible by the fact that economic growth and full employment had changed JSR from a high salience issue in the immediate post-war years to a low salience one in the 1950s and early 1960s. As Culpepper (2011) notes, employers are particularly successful in achieving their objectives in low salience issue areas because interest groups, political parties and voters are far more concerned with more immediate and pressing issues such as wages. JSR regained salience only in the late 1960s when structural change intensified and dismissals became more common.

4.3. Riding the wave of protests to improve protection against dismissal and fight institutional drift

Unions soon noticed the stark discrepancy between post-war ambitions and political and economic realities. They started to challenge this established order by requesting further regulations. In particular, they wanted to fight institutional drift by reducing the level of discretion in the interpretation and enforcement of rules and creating monitoring bodies that control the decision-makers' behavior (Crouch and Pizzorno 1978; Mückenberger 2010: 241-250; Sassoon 2010: 357-382).[12] Hence, the recipe was known, but given the economic and political situation in the 1950s and early 1960s the unions lacked the opportunity to enforce any change.

The opportunity, however, arrived in the late 1960s. A wave of labor unrest swept over Western Europe that empowered unions to enforce better protection against dismissal. The triggering events were the May 1968 protests in Paris that quickly diffused to all other European countries (Weyland 2008). Originally spontaneous student protests, the May 1968 demonstrations soon brought workers to the street, especially after the French Communist Party and the Communist Trade Union Federation had called for a general strike on May 13 (Sassoon 2010: 369). As Howell (1992: 66) notes, at one point in 1968 nine million workers were on strike in France. The protests in France were a

[12] These demands were part of general political program that aimed at increasing democratic ownership and control of production (often referred to as economic and industrial democracy). Next to better protection against dismissal and participation in company decision-making, major demands included the socialization of profits, higher wages, shorter working time, and improved working conditions (cf. Pizzorno 1978).

catalyst for labor unrest in other countries. Hence, in the late 1960s, all of Western Europe witnessed the resurgence of class conflict (Crouch and Pizzorno 1978).

The protests were fed by two main groups of factors: On the one hand, the protests were a reflection of the increasing dissatisfaction among certain societal groups, including the labor movement. Next to the ineffectual JSR, Western European workers were discontent about the slow growth of wages (compared to productivity), the lack of codetermination in labor matters, and inadequate social benefits (Pizzorno 1978; Mjøset 1987; Sassoon 2010). On the other hand, years of strong economic growth and full employment policies had empowered but also radicalized the labor movement (Crouch and Pizzorno 1978; Eichengreen 2007; Streeck 2011). Hence, unions became increasingly aggressive in demanding improvements in working conditions, wages, and job security. As Sassoon (2010: 364) notes, "workers were eager to obtain more of the fruits of capitalism".[13]

Western European governments responded to labor unrest by implementing some of the major demands. In particular, most Western European governments dramatically improved protection against dismissal. Notable examples include the French acts of 1973 and 1975, the German 1972 Works Constitution Act, the Italian 1970 Workers' Statute, the Dutch 1976 Act on the Notification of Collective Dismissals, and the Swedish 1974 Employment Protection Act. These acts have two important things in common: First, the acts significantly improved protection against dismissal. Second, they all strengthened the role of unions in the administration of dismissals by empowering local union branches or works councils and by awarding these actors with consultation, codetermination, or, in some cases, even veto rights.

However, not all Western European countries followed this pattern of fighting institutional drift by reinforcing protection against dismissal and awarding unions and/or works councils with important monitoring functions. Three cases deserve special mention: Denmark may be the only country in (democratic) Western Europe that did not strengthen dismissal protection in the late 1960s and early 1970s. However, this non-event was not for the lack of trying. In fact, the Danish unions were pushing for better protection against dismissal but their strategy to first emphasize the regulation by means of collective agreements failed as employers proved to be accommodating. When they subsequently switched to a strategy that emphasized statutory legislation, they could no longer rely on all-left majority governments because the 1973 election had led to a significant fragmentation of the party system (Emmenegger 2010a).

Switzerland is exceptional with regard to the low level of protection awarded by the 1971 reform and the absence of any institutional role of unions in the administration of dismissals. This from a unions' point of view disappointing result is largely the outcome of the balance of power in Switzerland. Compared to the other Western European countries, the Swiss labor movement is relatively weak and the late 1960s and early 1970s were characterized by low levels of radicalization (Emmenegger 2010b).[14]

[13] Partly as a function of these two groups of factors, JSR was also highlighted in international debates. In particular, ILO recommendation no. 119 (1963) pushed member states to improve protection against dismissal (Hepple 1992).

[14] In fact, Swiss unions pushed for further regulations in the 1970s. However, the government and the center-right parties rejected any further reform. The unions therefore launched a popular initiative requesting better protection against dismissal. In response, the Swiss government offered a very moderate reform of dismissal

Finally, Great Britain deserves special mention because the 1971 Industrial Relations Act, although improving protection against dismissal, was in fact enacted against the will of unions (Edwards et al. 1992: 11; Rueda 2007: 138). Most importantly, the 1971 act sharply limited the unions' rights to organize and protest. Passed by the Conservative Heath government, the act improved protection against dismissal to reduce the role of dismissals in industrial action (Davies and Freedland 1993: 200). The incoming Labour government led by Wilson repealed most of the anti-union stipulations in 1974 and 1975 but retained the articles that had improved dismissal protection (Davies and Freedland 1993: 357).

In parallel to these changes of dismissal protection law, the regulation of temporary employment gained in importance in the 1970s. As long as there was hardly any protection against dismissal in the case of open-ended contracts, the distinction between contracts of definite and indefinite duration was largely inconsequential. However, as protection against dismissal in case of open-ended contracts improved, the danger of employers using contracts of definite duration to circumvent dismissal protection increased (Countouris 2007). Hence, new acts in the late 1960s and 1970s regulated temporary employment and, in France, Italy, Germany, and Sweden, tightly restricted the recourse to fixed-term contracts. In contrast, regulations remained more flexible in Denmark, Great Britain, the Netherlands, and Switzerland (Schömann et al. 1998).

Next to fixed-term contracts, temporary work agencies also increasingly received political attention. Their legal status was unclear in most Western European countries, many of which, including Denmark, France, Germany, Italy, the Netherlands, and Sweden, had banned the activities of profit-seeking private employment services in the years around World War 2. However, it was unclear whether the ban also extended to temporary work agencies (Veldkamp and Raetsen 1973). Denmark, France (in 1982), Italy, and Sweden drastically curtailed the activities of temporary work agencies in the 1970s, while Germany, the Netherlands, and in particular Great Britain and Switzerland enacted more liberal regimes (Blanpain 1993).

Towards the end of the 1970s, the red wave that had swept over Western Europe began to lose power. The economic problems of the late 1970s gave rise to a new neoliberal orthodoxy and monetarist economics (cf. OECD 1994). The new focus on supply-side economics in deindustrializing societies and the increasing internationalization of trade and finances shifted the balance of power in favor of employers and business representatives. At latest by the early 1980s, the tables had turned, and business moved into the driver's seat. This new economic and political situation put unions on the defensive, particularly in times of economic crisis. Soon, unions began facing demands for the deregulation of job security. As the next two sections show, British unions responded rather differently to these demands than the remaining European unions.

The rise of Thatcherism and the demise of British unions

The economic situation in Great Britain deteriorated sharply in the 1970s. Much of this deterioration was attributed to the 'British disease', i.e. the excessive militancy of British unions (Sassoon 2010: 506). After the British unions and the Labour government had agreed on a 'social contract', union

law if in return the unions would withdraw their popular initiative. This very modest government proposal was ultimately enacted in 1988 (Emmenegger 2010b).

militancy initially declined but resurfaced in 1978. The 'Winter of Discontent' of 1978-79 became a symbol of the inability of both Conservatives and Labour to pacify the unions. After left-wing Labor MPs rejecting the government's attempts to contain union militancy had joined the Conservatives in opposition, the Callaghan government collapsed. The Conservatives, led by Thatcher, went on to win the election and gained control of a solid majority in parliament (Frieden 2006: 369).

Thatcher rejected any cooperation with unions. Rather, it was her goal to restore the authority and autonomy of the state. Hence, she refused to grant unions any role in public policy-making. Moreover, she was convinced that increasing unemployment would induce unions to moderate their wage demands and lessen their militancy (Dorey 2002: 67). This break with the past was certain to trigger hostile reactions from the unions. However, Thatcher was prepared. Before her election in 1979, she had secretly prepared a report on how to deal with political threats from the political opponents, in particular unions. The report, which was leaked to the press in 1978, was particularly detailed on how to deal with strikes in the coal industry, which was identified by the report as the most likely battlefield between the government and the unions (Golden 1997: 88). The preparations for the expected conflicts with the unions clearly show that Thatcher considered the unions as the main obstacle to the implementation of the government's political program.

Hence, Thatcher did not only implement her political program, she also pushed for a series of measures that reduced union power. These measures, discussed in detail by Davies and Freedman (1993: 427-429), revolved around three main themes: First, the government attempted to depoliticize unions by reducing the role of agencies and councils with union participation and tightened the conditions on which unions were allowed to maintain political funds. Second, several measures empowered employers to resist union demands, for instance by enhancing employers' freedom to dismiss workers involved in industrial action. Third, the government attacked expressions of solidaristic behavior by unions such as picketing away from one's own workplace and regulated trade unions' decision-making procedures. This last point is particularly important as it lead to the prohibition of closed shops, removed the unions' right to discipline members for refusing to participate in industrial action, and imposed on unions complicated consultation procedures before industrial action could be taken. By the end of the 1980s, Thatcher had changed the British political and industrial landscape beyond recognition despite desperate attempts by the once powerful British unions to stop their demise (e.g. the 1984/85 miners' strike).

In parallel, Thatcher dismantled dismissal protection. Already in 1979, the government extended the qualifying period of service for complaints about unfair dismissal from six to twelve months (extended to two years in 1985) and reduced the compulsory consultation period with recognized trade unions about impending redundancies (Davies and Freedland 1993: 555). Acts in 1980, 1982, 1985, 1989, and 1990 further reduced protection against dismissal. Hence, although the Thatcher government did not completely repeal dismissal protection law, it managed to restrict its scope, most notably by extending the qualifying period of service for complaints and by complicating the procedure for filing unfair dismissal claims.

Two-tier reforms to provide labor market flexibility and protection unions' interests

Outside Great Britain, unions also faced demands for the deregulation of job security. What is more, the fate of the once powerful British unions was widely noticed and thus galvanized the unions' attention in the rest of Europe (Scharpf 2000: 61; Eichengreen 2007: 398). Certainly, the Thatcher

revolution occurred under particular circumstances (single-party government, few institutional veto points, weakened political opposition), making a repetition in other countries difficult to achieve, but the events in Great Britain clearly documented that, given the international shifts in the balance of power, fundamental opposition to reform might lead reformers to target the role of unions first before they would refocus on public policy-making. Hence, the demise of the British unions certainly increased the unions' willingness to compromise on labor market reform.

The unions' willingness to make concessions translated into two-tier reforms in France, Germany, Italy, the Netherlands, and Sweden.[15] In these countries, attempts at dismantling protection against dismissal in case of open-ended contracts repeatedly failed, while union opposition to the deregulation of temporary employment was less forceful. Space restrictions do not allow me to discuss the numerous reforms here (for a detailed documentation see Emmenegger 2013). Hence, I restrict myself to discuss a particularly illustrative case in some detail (Italy), while I summarize the developments in the other countries only briefly.

Among the eight countries covered by this analysis, Italy had the most tightly regulated labor market in the early 1980s, at least in some respects. Labor law provided extensive protection against dismissal for arbitrary reasons, while temporary employment was essentially prohibited. However, collective dismissals were regulated only by collective agreement (changed only in 1991), while Italian dismissal protection legislation did not apply to large shares of workers in small-sized firms.

Given the increasing economic problems of Italy, demands for the deregulation of job security became louder in the late 1970s and the early 1980s. After the painful failure of the 1980 Fiat strike, the unions signaled their willingness to compromise on labor market reform (Haddock 2002: 211). In particular, the unions agreed to a series of deregulatory labor market reforms under the condition that initiatives were first approved by collective agreement (Ferner and Hyman 1992: 538-539). Put differently, the Italians agreed to deregulation subject to "the unwritten rule that any major legislation on labor matters must have the largely unanimous consent of the trade union movement (including its communist fraction)" (Treu 1987: 361).

This emphasis on tripartite agreements and compromise is important in order to appreciate the role of unions in subsequent labor market reforms. Over the course of the 1980s, several reforms step by step dismantled the regulation of temporary employment (in 1983, 1984, 1986 and 1987). By the end of the 1980s, Italian employers could deviate from most national regulations of temporary employment if unions assented to such deviations in plant-level agreements (Treu 1993: 207; Berton et al. 2012: 44).

With regard to open-ended contracts, developments went into the opposite direction. As noted above, Italian dismissal law is exceptionally restrictive in case of individual dismissals. However, the regulations' coverage is comparatively low and the regulation of collective agreements is entirely left to collective agreements. This situation was remedied in the early 1990s. Responding to demands by

[15] Denmark and Switzerland do not fit this pattern. In Switzerland, the regulation of temporary employment was already very flexible in the early 1980s. In Denmark, the 1989 Act on the Placing of Workers removed virtually any restriction on the activities of temporary work agencies. However, Denmark, just like Switzerland, never provided any significant protection against dismissal for workers on open-ended contracts.

the far left, the government expanded in 1990 the coverage of dismissal protection law to cover all workers except domestic employees and workers above the retirement age. One year later, the government introduced the first statutory regulation of collective dismissals, thereby institutionalizing a complicated consultation procedure with plant union representatives and the regionally most representative union. Overall, the two acts considerably increased the cost of dismissal and strengthened the role of unions in the administration of dismissals (Treu 1998: 110-120).

After this short intermezzo, attention returned to the deregulation of temporary employment. Again spurred by tripartite agreements, the Italian government under Prodi deregulated the recourse to fixed-term contracts and, in particular, allowed temporary work agencies to operate freely (1997). Berlusconi, elected in 2001, continued down the same path as his center-left predecessors. Already in 2001, he eliminated the need for employers to demonstrate their reasons for fixing the term of a contract (Berton et al. 2012: 48). Berlusconi enacted further deregulatory measures in 2003 (the famous Biagi Law) and, after a short stint in opposition, in 2008 and 2010 (Countouris 2007: 139-141; Berton et al. 2012: 50-51).

The Berlusconi governments showed little interest in tripartite agreements (Berton et al. 2012: 48). Hence, it would be wrong to argue that the Italian unions agreed to the labor market reforms enacted under these cabinets. However, it is telling to observe, which reform proposal Italian unions most fiercely opposed. Most union opposition triggered a draft law from 2002 that proposed rather modest changes to the right to reinstatement in case of unfair dismissals (Ferrera and Gualmini 156-157; Berton et al. 2012: 48).[16] The communist Italian General Confederation of Labour called a general strike and the communist Refoundation Party launched a referendum campaign to the extend the right to reinstatement in case of unfair dismissal to all workers regardless of establishment size (Ferrera and Gualmini 2004: 158). However, the other union confederations did not follow the communist one. Instead, they agreed with the Berlusconi government in July 2002 on the 'Pact for Italy', which contained a watered-down version of the original reform proposal (e.g. the reform of the right to reinstatement was dropped) in exchange for higher unemployment benefit replacement rates and various initiatives for the development of Southern Italy (Ferrera and Gualmini 2004: 159). The resulting act, the aforementioned Biagi Law, therefore solely focused on the deregulation of temporary employment and other forms of atypical work (Ferrera and Gualmini 2004: 160; Countouris 2007: 139-141).

Developments in France, Germany, the Netherlands, and Sweden were characterized by a very similar pattern. Just like in Italy, deregulatory reforms focused almost entirely on temporary employment because reform attempts that targeted open-ended triggered ferocious union opposition. What is more, the few reforms of open-ended contracts that succeeded were typically repealed by incoming center-left governments (in Germany the 1996 Employment Protection Act was repealed in 1998, while in Sweden the 1993 act allowing employers to exempt two employees from

[16] The proposal suggested to abolish the right to reinstatement for a limited period of three years in the following cases: (1) if a company with more than 15 employees 'came out' of the black economy with intent to regularize its activities; (2) if a company decided to pass the threshold of 15 employees with the hiring of new regular staff; and (3) if a company transformed temporary workers into permanent employees (Ferrera and Gualmini 2004: 158).

the system of priority listing was repealed in 1994). In contrast, there are numerous reforms that deregulated temporary employment in these four countries. Important examples of such reforms include the 1985 act by the Fabius government in France, the 1985 act by the Kohl government and the 2002 act by the Schröder government in Germany, the 1997 and 1998 acts by the Kok government in the Netherlands, and the 1993 act by the Bildt government and the 1996 act by the Persson government in Sweden.[17]

It is important to emphasize that unions did not push for these reforms in these countries. Rather, under pressure to allow for more labor market flexibility, unions assented to these two-tier reforms. Often, these reforms were enacted after tripartite consultation and/or by left-wing governments (most famously the Dutch flexicurity acts of 1997 and 1998).

But why did unions sacrifice the regulation of temporary employment? The empirical evidence clearly points to the importance of organizational and representational interests (Emmenegger 2013). Given the membership composition of unions (Ebbinghaus 2006; Rueda 2007) and their institutionalized role in the administration of dismissals (Davidsson 2011; Davidsson and Emmenegger 2012), unions decided to emphasize the regulation of open-ended contracts over the regulation of temporary contracts. This way, unions could protect the interests of their core members as well as their important roles in company personnel policies, which are typically linked to open-ended contracts.

Conclusions

In this paper I have analyzed the historical development of JSR in Western Europe since World War 2. Based on classic power resources approaches and recent scholarship in historical institutionalism, in particular by Mahoney and Thelen (2010), I have developed four theoretical propositions that were subsequently demonstrated using empirical evidence from eight Western European countries over a period of more than sixty years.

In a nutshell, I have argued that unions are the main drivers behind the expansion of JSR. However, given employers' opposition, unions can enforce better JSR only during critical junctures such as the immediate post-war years or the years of workers' protests in the late 1960s and early 1970s. Outside these relatively short periods, employers have tried to take advantage of institutional ambiguity to deviate from formal rules. As the empirical evidence has demonstrated, institutional drift was indeed an important problem in the 1950s and 1960s.

Unions have addressed the problem of widespread institutional drift during the second critical juncture, in the late 1960s and early 1970s. In particular, unions relied on two strategies to improve protection against dismissal: First, they pushed for new and tougher regulations that minimized the employers' discretion in the interpretation and enforcement of rules. Second, they pushed for monitoring bodies that observe and potentially sanction employers' behavior, preferably with their participation.

[17] There were only few reforms in Denmark and Switzerland. Both countries already had very liberal regimes in the 1970s and 1980s (both with regard to open-ended contracts and temporary employment). The only exception was the regulation of temporary agency work in Denmark, which was deregulated in 1989.

The wave of workers' protest that washed over Western Europe in the late 1960s and early 1970s and that had led to a series of significant reforms of dismissal protection began to lose power in the late 1970s. Business representatives were now moving into the driver's seat and began to demand more labor market flexibility. They still do so today.

Facing pressure to allow for more labor market flexibility, unions typically assented to the deregulation of temporary employment, while remaining firm in the case of the regulation of open-ended contracts. This strategic response has three significant advantages for unions: First, it does not turn them into a target for reform (as in the British case). Second, this strategy allows them to protect their members' interests (typically workers on open-ended contracts). Third, it allows them protect their own organizational interests (in particular the institutional roles unions had acquired in the 1970s in the administration and monitoring of dismissals). Such an outcome can be described as institutional layering, which refers to the process of attaching new elements to existing institutions, thereby changing the status of existing institutions.

The political explanation for the historical development of JSR presented here is strongly inspired by recent work by Mahoney and Thelen (2010). Their model of gradual institutional change is exceptionally helpful in identifying the strategic environment political actors face when pursuing reforms of JSR. However, the discussion also revealed some important limitations of the model.

For instance, the boundaries of the different types of institutional change are not always sufficiently clear (van der Heijden 2011). This problem leads to two complications: First, given the absence of a clear definition, the difference between gradual and abrupt change turns to some extent into a question of perception. Reforms can be analyzed in isolation or as part of series of minor reforms that incrementally altered a given institution. Consider the German Employment Promotion Act of 1985. Although the act was one in a long series of acts that deregulated temporary employment, the act was also significant in itself because it was the first important deregulatory act in German labor market policy-making and thus an important turning point. Given my historical perspective, I have emphasized long-term trends and therefore interpreted the 1985 act as gradual institutional change. However, this interpretation can be questioned.

The lack of clear boundaries also affects the comparison of different types of gradual institutional change. In this paper, I understand the deregulation of temporary employment in the absence of deregulation of open-ended contracts as a form of institutional layering because these reforms add a second, more flexible layer of employment contracts to the existing, less flexible ones. Thereby, the status of open-ended contracts is changed because these contracts are now reserved for core workers, while marginal workers have to content themselves with temporary contracts.

However, this process could also be interpreted differently. For instance, in earlier work, Thelen defined displacement as a form of gradual institutional change characterized by the slowly rising salience of subordinate relative to dominant institutions (Streeck and Thelen 2005: 31). Ultimately, in this understanding, the subordinate institution (e.g. temporary contracts) is going to replace the dominant institution (e.g. open-ended contracts) at one point. However, since we cannot know what the future brings, the distinction between layering and displacement in the case of JSR becomes rather difficult. In this paper, I have interpreted two-tier labor market reforms as examples of

institutional layering because there is no evidence that temporary contracts ever completely displace open-ended ones. Moreover, the empirical evidence clearly shows that the protection of open-ended contracts was part of the unions' rationale behind assenting to the deregulation of temporary employment. Again, this interpretation can be questioned.

Finally, it remains unclear why Mahoney and Thelen's (2010) model does not allow for other forms of institutional breakdown than displacement. In their model, displacement is the likely form of institutional change if there is little discretion in the interpretation and enforcement of institutions (thereby ruling out forms of institutional change such as conversion and drift) and opponents to reform are too weak to veto change. However, in such situations, there are also other possible forms of institutional change such as (abrupt) institutional breakdown (given the weakness of the political opposition) or institutional shrinkage, that is, the active scaling back of the main dimensions which characterize an institution (Steinlin and Trampusch 2012).[18] Admittedly, Mahoney and Thelen (2010) present a broader definition of displacement (the removal of existing rules and the introduction of new ones) than in previous work (where they defined displacement as the slowly rising salience of subordinate relative to dominant institutions), but they remain silent on whether their (new) understanding of displacement also encompasses processes of institutional breakdown, erosion, or dismantling by active removal and limiting of existing institutions.

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[18] Arguably, the British might be best understood as a case of institutional shrinkage.

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