

Defending the Organisation, not the Members

Unions and the Reform of Job Security Legislation in Western Europe

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Abstract: European labour markets are often described as rigid with comparatively high levels of job protection that do not allow for the flexible adjustment of employment to economic fluctuations. This interpretation overlooks important sources of flexibility, however. Research has shown that recent labour market policy reforms have allowed for the creation of two-tier labour markets consisting of insiders in standard employment relationships and outsiders in non-standard employment. This outcome has typically been explained by pointing to the representational interests of unions or social-democratic parties. It has been argued that rather than protecting all labour market participants, unions and social-democratic parties focus on the interests of their members and their core constituency respectively, most of whom are in standard employment relationships. In contrast, we argue that unions' institutional power resources are the crucial variable explaining this outcome. In difficult economic times, when unions are asked to make concessions, they will assent to labour market reforms, but only to reforms that do not fundamentally threaten to undermine their organisational interests. In the context of job security legislation, this means that unions defend the protection of permanent contracts, while they compromise on the regulation of temporary employment. This 'second best solution' allows them to protect their organisational interests both by retaining their institutional role in the administration of dismissals and by living up to their institutional role as one of the organisations responsible for the direction of labour market policy reform. Using fsQCA we show that unions' institutional power resources are more apt to explain the observed two-tier reform pattern than the unions' or the social-democratic parties' representational interests.

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Since the 1970s European labour markets have undergone fundamental change. Governments in most countries have responded to higher and more persistent levels of unemployment by reforming their labour market policies. A key element of these reforms has been to increase labour market flexibility by deregulating job security legislation, which denotes the legal restrictions of the managerial capacity to dismiss employees to allow for downsizing or to use new forms of employment such as temporary work when hiring new workers (Regini 2000: 16). However, rather than going for more fundamental reforms where job security legislation is deregulated for all types of workers, governments have mostly introduced two-tier reforms where job security legislation is only deregulated in relation to fixed-term or temporary agency work (Ochel 2008; Davidsson 2011b; Emmenegger et al. 2011a).

Labour market reforms typically have distributional consequences. Employers are interested in flexibility in order to cope with macroeconomic shocks, while employees value security. Given the employers' interest in flexibility and their increased bargaining power in the context of high unemployment, we face the question of who will bear the brunt of economic adjustment. Are all labour market participants equally affected by the demands for increased flexibility or are some participants enjoying the benefits of stable employment relationships and high wages while others provide all the flexibility? Following Piore (1980: 24), we can speak of a dualism on the labour market when portions of the labour force are insulated from uncertainty and variability in demand. These labour market participants can be referred to as labour market insiders. In contrast, labour market outsiders are employees that provide the demanded flexibility, in the form of atypical employment or unemployment (Emmenegger et al. 2011b: 10).

Unions play a crucial role in determining this distributional outcome. As defenders of their members' interests, unions are said to have an interest in protecting their members against employer demands, while ignoring the interests of non-members (cf. Olson 1965; Lindbeck & Snower 1988). Given the overrepresentation of labour market insiders among the union rank and file, unions are expected to assent to reforms that increase labour market flexibility at the expense of labour market outsiders, while opposing reforms that disadvantage labour market insiders (Saint-Paul 2002). Similar arguments have been made in relation to political parties. An influential hypothesis in the literature holds that while social-democratic parties are believed to represent all workers, they in fact primarily defend their core constituency, which, like in the case of union members, is characterised by an overrepresentation of labour market insiders (Rueda 2007). Thus, union membership composition and the incidence of social-democratic governments are held to be decisive in determining labour market policy reform.

In previous research (Davidsson 2011a; Davidsson & Emmenegger 2012), however, we have found that unions support reforms that go against the interests of labour market outsiders not only in countries such as France, where union membership is largely limited to labour market insiders, but also in countries like Sweden, which has one of the most encompassing union membership structures in Europe (Ebbinghaus 2006). In a similar vein, while social-democratic governments have had a much stronger hold on power in Sweden than they have had in France (Huber & Stephens 2001), the reform of job security legislation in France has been characterised by the same two-tier pattern that can be observed in Sweden. Hence, there seems to be a need to look for alternative explanations.

In contrast to arguments based on representation, we argue that the unions' organisational interests are the crucial variable explaining union behaviour. Unions in countries with strict job security legislation often have a strong interest in retaining high levels of protection for workers with permanent contracts because some institutional features of the existing policies are crucial for their long-term positions of power. At the same time, unions have an interest in retaining their institutional role in the deliberation of labour market policies because this participation allows them to influence the direction of labour market reform. However, their participation also forces them to enter negotiations with employers and the government, and it presupposes some basic willingness to compromise.

In difficult economic times, when unions are asked to make concessions, they will assent to labour market reforms, but only reforms that do not fundamentally threaten to undermine their organisational interests. In the context of job security legislation, this means that unions defend the interests of labour market insiders by protecting permanent contracts, while they compromise on the regulation of temporary employment. This solution allows them to protect their organisational interests both by retaining their institutional role in the administration of dismissals and by living up to their institutional role as one of the organisations responsible for the direction of labour market policy reform. We thus argue that the main reason unions defend insider interests is that the unions' own organisational interests are at stake. Below, we conceptualise the organisational interests contained in the institutional roles of unions in the administration of dismissals and in the deliberation of political reform as 'institutional power resources' (Davidsson 2011a).

Previous research, cited above, based on case studies comparing France and Sweden provided evidence of the causal mechanisms linking union behaviour in labour market reform with efforts to protect their organisational interests. In this paper, we use fuzzy set qualitative comparative analysis (fsQCA) to examine to what extent our findings can be generalised to a larger set of Western European countries. To do so, we have developed indicators both for the hypothesised explanation of unions' institutional power resources (IPR) as well as the two main alternative explanations: union membership composition and the incidence of left governments. Our analysis shows that unions' institutional power resources are, in combination with high initial levels of regulation of temporary employment, a sufficient condition for the presence of two-tier labour market reforms. In contrast, we find no evidence supporting hypotheses that focus on the roles of unions' membership composition or left incumbency in explaining two-tier labour market reforms.

We proceed as follows. In section 2, we expand our theoretical argument based on the concept of IPRs and relate it to the literature on corporatism. In section 3, we examine to what extent our argument can be generalised using fsQCA. A final section concludes.

Union second-best solution: Defending the members or the organisation?

Although unions have lost members and thus strength in recent decades (Visser 2009), corporatist arrangements have survived. After having declined in the 1980s, they grew again in the 1990s when social pacts became more prevalent. Especially in labour market policy, unions continue to play a key role (e.g. Anderson 2001; Palier & Thelen 2010; Emmenegger et al.

2011a). Table 1 shows that in many European countries unions have an institutional role in labour market reform (Compston 2003).

[Table 1]

What differs, however, from the so-called 'Trente Glorieuses' during which unions first institutionalised their participation in labour market policy-making is that unions now are on the defensive. In times of permanent austerity (Pierson 2001) distributive trade-offs are sharpened and increasingly resemble zero-sum games. The new focus on supply-side economics in de-industrialised societies, the increasing internationalisation of trade and finances as well as the emergence of persistent unemployment have aligned general perceptions of the solution to the problem of unemployment with employers' preferences for radical deregulation of the job protection legislation. In previous case study research, we have found that employers' organisations have pushed for across-the-board deregulation of the job protection legislation (Davidsson 2011a; Davidsson & Emmenegger 2012). No longer in a position to advance their own agenda, as they had been during the post-war decades, unions now have to play a defensive game protecting what they consider most essential in the face of political pressure to deregulate the labour market. Put differently, unions have to settle for second-best solutions.

Facing demands for the deregulation of job security, unions face tough strategic choices. They can be as intransigent as possible and try to defend the existing job security legislation, thereby risking wholesale deregulation in case they lose the political battle. However, this strategy is an unlikely choice given the shift in the power balance between capital and labour

and the experience of the British labour movement, which fell victim to a prime minister who was strongly committed to deregulation of the labour market (Scharpf 2000: 61).

Alternatively, unions can make concessions and thereby hope to influence the direction of change. If unions are pressured to allow for some deregulation of job security, they essentially have two options: They can allow for some deregulation of job security for all workers or they can allow for flexibility at the margins while defending the protection of the core workforce.¹ We refer to the latter as two-tier labour market reform. Of course, most unions opt for some kind of combination of these strategies. Nevertheless, one of the two strategies is likely to prevail.

Existing research allows us to formulate hypotheses about what the unions' strategically well-chosen reform choices are. In particular, two arguments in the literature allow us to predict the strategic choice of unions. They closely follow the 'logic of membership' and the 'logic of influence' distinction developed by Schmitter and Streeck (1999). Originally, the two concepts were used to identify different types of business associations, but as Schmitter and Streeck (1999) argue, the two logics are applicable to all forms of intermediary organisations including unions. The 'logic of membership' emphasises the short-term interests of union members. It denotes the need of unions to offer sufficient incentives to attract or retain members. In contrast, the 'logic of influence' concerns the long-term interests of unions (Schmitter & Streeck 1999: 54). It denotes the need of unions to offer sufficient incentives to the state and other interest groups to gain access and to exercise adequate influence over political and economic decisions.

The two logics imply that unions are interested in both retaining members *and* maintaining their role in the deliberation of political reforms. Nevertheless, until now academic debates about the politics of labour market reform have been dominated by arguments based on representational interests and hence the 'logic of membership'. In explaining why insiders have been privileged over outsiders in labour market reforms, the literature has focused on unions' preferences for defending member interests (cf. Lindbeck & Snower 1988; Anderson 2001; Saint-Paul 2002; Rueda 2007). Given the overrepresentation of labour market insiders among the union rank and file, unions are expected to assent to reforms that increase labour market flexibility at the expense of labour market outsiders, while opposing reforms that disadvantage labour market insiders.

Consequently, union membership composition is the crucial variable in explaining the dualist tendencies of recent labour market reforms. Unions that organise both labour market insiders and outsiders (such as the Swedish unions) are said to pursue more egalitarian policies and to consider outsider interests because they tend to have more members who hold atypical jobs. Obinger et al. (2011: 177) argue that 'encompassing labor organizations transcend particular interests and thus have an incentive to speak on behalf of outsiders'. In contrast, the more union membership composition is skewed towards labour market insiders (such as the French unions), the less likely they are to consider outsider interests. In this case, unions are expected to pursue policies that only protect the interests of insiders, while the interests of outsiders are sacrificed in the name of labour market flexibility.

Rueda (2007) has applied the same logic to the political behaviour of social-democratic parties. He argues that while social-democratic parties are typically believed to represent the

interests of all workers, they in fact primarily defend their core constituency, which is, like in the case of union members, characterised by an overrepresentation of labour market insiders. Hence, he identifies social-democratic parties as the main defenders of job security legislation for permanent workers, while he finds no effect of social-democratic incumbency on pro-outsider policies.² Thus, from the perspective of representational interests, both the unions' membership composition and social-democratic incumbency are decisive in determining labour market policy reform.

In contrast to arguments about representational interests, unions' preferences can also be formed in response to organisational interests. The essence of the 'logic of influence' is a focus on the long-term interests of intermediary organisations, here unions (Schmitter & Streeck 1999: 54). Put differently, 'the logic of influence' is concerned with strategies that help preserve unions' long-term position of power. As we will argue in the following paragraphs, the *institutional* role of unions in labour market policy-making is of crucial importance in sustaining union power. Unlike most of the existing literature, which equates union power with membership size (e.g. Korpi 1983; Huber & Stephens 2001), we argue that a large part of unions' power resides in their hold on a set of institutions.

This distinction between two sources of power has its precedents in the neo-corporatist literature. For instance, Traxler et al. (2001) distinguish between primary and secondary power resources where the former refers to union density and the latter to unions' ability to extract resources from third party actors, in particular the state. This distinction corresponds to different perspectives on power. There is also a clear parallel between primary power resources and Schmitter's (1979) definition of neo-corporatism, which focuses on union density and the

centralization of wage bargaining. In contrast, secondary power resources are analogous to Lehbruch's (1979) definition of neo-corporatism, which focuses on union involvement in state regulation.³

At first sight, primary power resources seem to be more important for sustaining unions' long-term position of power because unions' secondary power resources are fundamentally dependent on the state's willingness to grant unions influence. As Traxler et al. (2001: 75) note, unions 'need state support when trying to exert influence on socioeconomic policy issues formally regulated by the state' (see also Korpi 1983: 15). Hence, we should expect the 'logic of membership' to prevail and unions to directly represent the interests of their constituency.

However, we believe that such a conclusion would be premature. It fails to acknowledge that unions have often managed to institutionalise their roles in labour market policy-making, hence making these secondary power resources partly independent of state support. We argue that in a context where unions are on the back foot, they need to make sure that these institutional roles survive. In other words, unions need to act strategically and focus on their organisational interest rather than produce results for their members in terms of particular policy reforms. Hence, we argue that in the reform of job security legislation the 'logic of influence' prevails over the 'logic of membership'.

Other scholars have also focused on how unions' preferences can be determined by their organisational interests. Focusing on strike activity following workforce reductions, Golden (1997) argues that unions are not primarily concerned with preventing job loss, but with preserving the union organisation. Put differently, facing a situation where their long-term position of power is threatened unions choose a strategy that involves overriding members'

interests in order to safeguard unions' organisational interests. In a similar vein, Clegg (2011) explains the reforms of unemployment insurance systems in Belgium and France by focusing on unions' organisational interests. Interestingly, he shows that organisational interests made Belgian unions support pro-outsider policies. Hence, organisational interests are not always to the benefit of labour market insiders. However, as we show below, in the context of the reform of job security legislation, organisational interests make unions adopt pro-insider positions because unions' organisational interests are typically linked to the regulation of open-ended contracts.

There is a general tendency in the literature to underestimate the linkage between institutions and power (Knight 1992; Moe 2005). Many scholars of institutions, best exemplified by rational choice theory, have primarily focused on how institutions facilitate cooperation and solve collective-action problems rather than on how they are the product of conflicts over distributive gains. In contrast, many scholars of power, best exemplified by the power resources theory, have focused on the power that is given to political actors as a consequence of the size of their membership or their vote share rather than on the power implications of institutions. Following Moe (2005), we put forward the argument that institutions can be power resources in themselves.

Historically, political actors have used their (temporary) hold on power to establish institutions that serve their interests. For instance, during the 'Trente Glorieuses', a period of labour movement strength, unions did not only grow in terms of membership, they also established important institutions that would ensure their influence in future, perhaps less advantageous periods.⁴ With regard to job security legislation, unions managed to create two

institutions that would sustain their long-term position of power. First, unions institutionalised their role in the deliberation of labour market reform. Until today, unions have retained this role in most countries (Compston 2003). Second, unions institutionalised their role in the administration of dismissals (Davidsson 2011a; Davidsson & Emmenegger 2012). This role in the administration of dismissals allows unions to extract benefits because employers are dependent on union cooperation in workforce reductions. The institutionalised roles of unions in the deliberation of labour market reform and the administration of dismissals are what we refer to as 'institutional power resources'. The concept denotes the power resources that become the property of organisations as a result of their ability to hold on to these institutions.

Unions' institutional role in the deliberation of political reform, which can be either a formal or an informal institution, allows them to influence legislation. For instance, France has a long tradition of letting unions and employers pre-negotiate new legislation. This tradition was formalised in law in 2007. Before introducing new job security legislation, the government is now required to put the issue to negotiation between unions and employers. If they reach an agreement, the government is directed to base the new legislation on this agreement (Davidsson 2011a).

The unions' institutional role in the administration of dismissals allows them to negotiate the compensation of workers in the form of redundancy pay and training measures, represent dismissed workers in court, and protect union delegates against dismissals. Typically, the unions' administrative role is linked to the legislation on open-ended contracts. For instance, in Sweden, the 'last in, first out' principle contained in the job security legislation for open-ended contracts is optional in the sense that derogations to the principle can be negotiated between

unions and employers. This gives unions the opportunity to bargain for compensation. The position of unions as a bargaining partner also makes it possible for them to protect union delegates against dismissals. In France in case of collective dismissals for economic reasons, union delegates have the right to be informed and consulted by the employers, including the establishment of social plans. In addition, unions have the right to question the social plan by inviting an external accountant. French unions also have the right to represent workers in legal proceedings and to take employers to court for not having followed regulations contained in the relevant legislation or collective agreements (Davidsson 2011a).

The interaction between these two institutions, unions' institutionalised role in the deliberation of reforms and in the administration of dismissals, forms the basis of our theoretical argument; they both need to be present in order to produce two-tier reforms. First, unions have to be present at the negotiating table. Second, legislation has to link unions' organisational interest to the regulation of open-ended contracts. The interaction takes place when unions seek to defend these two institutions. In order to hold on to the first institution, unions will need to show some basic willingness to compromise to legitimise their position in the policy-making process. In order to protect the second institution, unions will have to base such compromises on the deregulation of temporary employment, which in contrast to the legislation on open-ended contracts is not linked to unions' organisational interests.

In sum, in the context of permanent austerity and high unemployment unions are forced to compromise in order to retain their institutional role in the policy-making process. In making such compromises, unions' preferences are linked to the defence of dismissal protection for open-ended contracts if existing legislation confers on them an institutional role in the

administration of dismissals. In other words, if unions have institutional power resources to defend, they consent to two-tier labour market reform in order to defend their long-term position of power. Hence, union preferences are dependent on the institutional context. If institutional power resources are present, we expect to observe two-tier labour market reforms. In contrast, if unions do not have an institutionalised role in the deliberation of political reform (and hence no influence on the reform of job security legislation) or if they do not have an institutionalised role in the administration of dismissals (and hence no need to protect their organisational interest), we cannot expect to observe two-tier labour market reforms.

Empirical analysis

The remainder of the article evaluates the two hypotheses through an fsQCA of 14 Western European countries in the period 1985 to 2010. Cases include the EU15 member states except Luxembourg, for which not all data is available. We use fsQCA for a number of reasons concerning the nature of our hypotheses and the available data (Ragin 2008). First, our theoretical argument implies a complex causal explanation for two-tier labour market reforms. Our starting point was the observation that unions are under political pressure to allow for more flexibility in the labour market and that they are likely to allow for the deregulation of temporary employment while defending legislation on open-ended contracts. This observation, of course, applies only to cases in which the initial level of regulation of temporary employment is rigid. Hence, our theoretical argument implies that we observe two-tier labour market reforms if unions' institutional power resources are at stake *and* the level of regulation of temporary employment is high at the beginning of the period under investigation.

Second, while our theoretical argument emphasises institutional power resources and therefore the ‘logic of influence’, it is conceivable that both the ‘logic of influence’ and the ‘logic of membership’ are at work *at the same time*. Put differently, it is theoretically possible that unions in some countries consent to two-tier labour market reforms to protect their institutional power resources, while unions in other countries consent to these reforms because their membership composition is biased against outsider interests. Hence, we need a data analysis technique that allows for multiple pathways to an outcome.

Third, the theoretical arguments are framed in terms of necessary and sufficient conditions. Our argument implies that a high initial level of regulation of temporary employment is necessary for the outcome two-tier labour market reforms. In addition, our argument implies that a high initial level of regulation in conjunction with the presence of institutional power resources is sufficient to induce unions to consent to two-tier labour market reforms. fsQCA is best suited to deal with necessary and sufficient conditions because it is based on set theoretical relationships.

Finally, we opt for fsQCA because the analysis of national labour market reform trajectories entails the ‘few cases, many variables’ problem typical of much macro-comparative research. In such cases, regression analysis is not an appropriate data analysis technique because the small number of observations would render the results insufficiently reliable. In addition, the small number of observations would not allow for the inclusion of multiple interaction terms. In contrast, fsQCA can deal with complex causality even if the number of cases is relatively small.⁵

Data

This section presents the calibration of the outcome ‘two-tier labour market reform’ and the four conditions ‘institutional power resources’, ‘union membership composition’, ‘strength of left parties’ and ‘initial level of regulation of temporary employment’.

Two-tier labour market reforms (TWOTIER): A country is characterised by two-tier labour market reforms if the regulation of fixed-term contracts and temporary work agencies is liberalised (thereby weakening the protection of labour market outsiders), while the regulation of open-ended contracts and collective dismissals remains largely untouched (thereby upholding the protection of labour market insiders). We capture two-tier labour market reforms using three data sources. First, we use the database by the Fondazione Rodolfo DeBenedetti and the Institute for the Study of Labour to obtain data on the number and content of reforms of temporary employment.⁶ We count the number of reforms that reduced the regulation of temporary employment and subtract from this sum the number of reforms that increased the regulation of temporary employment. Second, we use the OECD’s EPL indicator (Venn 2009) to get data on changes of the regulation of temporary employment in the period 1985 to 2008 compared to changes of the regulation of open-ended contracts and collective dismissals in the same period. Finally, we use Davidsson’s (2011b) qualitative assessment of labour market reforms, which distinguishes between four groups of countries depending on whether they increased or decreased the regulation of temporary employment and the regulation of open-ended contracts. We have standardised the three indicators to range from 0 to 1, calculated the average score for every country and finally used Ragin’s (2008) direct method of calibration to

transform the resulting indicator into a fuzzy set. The qualitative anchor points for the calibration are displayed in Table 2.

[Table 2]

Institutional power resources (IPR): Unions' institutional power resources are a function of their institutionalised roles in labour market policy-making and the administration of dismissals. In the theoretical section, we argued that both institutions need to be present in order to produce two-tier labour market reforms. Hence, we calibrate the two institutions separately and subsequently calculate the intersection between the two fuzzy sets using the 'fuzzy or'. We capture union political involvement using the Traxler et al. (2001) indicator of 'associational participation in state regulation (unions)', which is based on an aggregate index of dichotomous scores of the participation of unions in labour market policy. Unfortunately, Traxler et al. (2001) do not cover Greece, so we use data from Visser (2009) on the 'routine involvement of unions' and employers' organisations in the preparation, decision and implementation of government's social and economic policy-making' to estimate a score for Greece. We prefer Traxler et al.'s (2001) data to Visser's (2009) because it focuses more narrowly on labour market policy and union involvement. As Traxler et al. (2001) provide on average higher scores for the 13 countries than Visser (2009), we correct Visser's score for Greece by the average difference between the Traxler et al. (2001) indicator (rescaled to range from 0 to 1) and the Visser (2009) indicator (rescaled to range from 0 to 1) for the other 13 countries.

Union administrative involvement is captured using three indicators. The first indicator by Botero et al. (2004) refers to third party involvement (e.g. unions) in dismissal procedures, legislation that mandates retraining and replacement before dismissal and priority rules in case of dismissals and reemployment. The second indicator by Visser (2009) refers to the 'rights of work councils or employee representation in firms, enterprises and establishments'. Such rights include co-decision, consultation and information rights in dismissal procedures. The third indicator refers to legislation that accords special protection to workers' representatives. The indicator is derived from qualitative information contained in the ILO EPLex databases as well as the ETUI database on national industrial relations.⁷ Countries with legislation that includes special protection of workers' representatives have been given the score 1, otherwise zero. We have standardised the three indicators to range from 0 to 1 and calculated the average score for every country.

We have transformed both the indicators of union political involvement and union administrative involvement into fuzzy sets using Ragin's (2008) direct method of calibration (see Table 2 for the qualitative anchor points). The fuzzy set 'institutional power resources' is the intersection of the two fuzzy sets 'union political involvement' and 'union administrative involvement'.

Union membership composition (MEMBER): The indicator of union membership composition takes union density as its starting point (weight 6/12). These values are then complemented by data on union coordination (1/12), the share of young (1/12)⁸, female (1/12) and foreign-born (1/12) union members as well as the share of low-service functionaries (1/12)⁹ and labour market outsiders (part-time, temporarily employed or unemployed) among union

members (1/12). These groups have been identified in the dualization literature as the societal groups most adversely affected by two-tier labour market reforms (Emmenegger et al. 2011). The data on union density and information on concentration of authority within unions are from Visser (2009). Data on the representation of young, female, foreign-born, services sector, unemployed and atypically employed labour market participants are taken from the first wave of the European Social Survey (2002). We have standardised all indicators to range from 0 to 1 and calculated the weighted average, which was then transformed to range from 0 to 1. High values indicate that labour market outsiders are well represented by unions.

Strength of left parties (LEFT): Our measure of the strength of left parties is the geometric mean¹⁰ of the share of cabinet posts held by left parties in government in the period 1980 to 2008 (Armingeon et al. 2010) and the expert left-right placement of the main, typically social democratic party of the left (Benoit & Laver 2006). The resulting indicator takes on high values if the left parties are electorally successful and have a clear left profile. We have used Ragin's (2008) method of calibration to transform the indicator into a fuzzy set (see Table 2 for the qualitative anchor points).

Initial level of regulation of temporary employment (TEMP85): We capture the initial level of regulation of temporary employment using data from the OECD (Venn 2009). We use each country's score for 1985 (the earliest observation provided by the OECD). The fuzzy set is calibrated using Ragin's (2008) direct method of calibration (see Table 2 for the qualitative anchor points).

Table 3 displays the fuzzy set scores for the outcome and the four conditions. It shows that two-tier labour market reforms were most prevalent in Belgium, Germany, Greece, Italy

and Sweden. The union membership composition was most encompassing in Denmark, Finland and Sweden, while the political left was strongest in Belgium, France, Greece, Spain and Sweden. Belgium, Greece, Italy and Sweden were characterized by the highest initial levels of regulation of temporary employment. Finally, the Austrian, Dutch, Finnish, French and German trade unions possess the most institutional power resources.

As regards notification, upper-case letters indicate the presence of an outcome or condition, while lower-case letters indicate its absence. With regard to Boolean operators, we use '*' to signify the logical AND, '+' to signify the logical OR and an arrow '→' to express a sufficiency relation.

[Table 3]

Method

We use fuzzy set QCA (fsQCA) rather than crisp set or multi-value QCA because fsQCA allows for partial membership in sets. fsQCA enables us to take advantage of the (theoretically meaningful) variation in the data. The empirical analysis incorporates four conditions, which allow for 16 possible logical combinations of conditions (2^4). With only 14 empirical cases we are certainly facing the problem of limited diversity, i.e., the problem that not all logically possible combinations of relevant causal conditions exist in the real world. We approach this problem, following Ragin (2008), by distinguishing between easy and difficult counterfactuals. Instead of using no or both easy and difficult counterfactuals to simplify the solution equation, we incorporate only those counterfactuals that correspond to our theoretical expectations (easy

counterfactuals), while those that do not correspond to our theoretical expectations (difficult counterfactuals) are not included in the simplification of the solution equation (the so-called intermediate solution). However, following the 'standards of good practice in QCA' (Schneider & Wagemann 2009), we document both the complex (no counterfactuals used) and the parsimonious solution (both easy and difficult counterfactuals used) in the note to Table 6.

In the following analysis, we first test for necessary conditions for the outcome 'two-tier labour market reforms' and then turn our attention to sufficient conditions. We use descriptive measures such as consistency and coverage to measure the 'goodness of fit' of the solution equation (Ragin 2008). Following Skaaning (2011), we conduct a series of tests to assess the robustness of the obtained solution equation. First, we present the parsimonious, intermediate and complex solution as well as the solution equations for different consistency thresholds. Second, we replicate the analysis using simpler calibrations of the two main alternative explanations for the outcome 'two-tier labour market reforms', namely 'union membership composition' and 'strength of left parties'. These 'low tech' calibrations are based on union density (union membership composition), the representation of societal groups most adversely affected by two-tier labour market reforms (union membership composition) and the share of cabinet posts held by left parties in government (strength of left parties). Finally, we assess the dependency of the solution equation on the choice of qualitative anchor points by repeating the analysis with slightly revised calibrations. For the five fuzzy sets we change the score of the case just above (below) the crossover value to 0.49 (0.51) and hence just below (above) the crossover value.

Necessary conditions

Table 4 displays the results of the analysis of the necessary conditions for the outcome ‘two-tier labour market reforms’. Following Schneider and Wagemann (2009: 406), we consider conditions necessary only if their consistency scores are above 0.90. Table 4 shows that a high initial level of regulation of temporary employment is a necessary condition for two-tier labour market reforms. In fact, all countries with two-tier labour market reforms feature high initial levels of regulation of temporary employment. In contrast, none of the other three conditions seem necessary for the outcome ‘two-tier labour market reforms’.

[Table 4]

Sufficient conditions

We now turn to the analysis of sufficient conditions for the outcome ‘two-tier labour market reforms’. Table 5 displays the truth table. The 14 cases cluster into 9 of the 16 possible rows. Hence, seven combinations of conditions do not exist in the real world. The solution equation is shown in Table 6. It contains only one combination of conditions, which can be read as follows: High initial levels of regulation of temporary employment in combination with the presence of institutional power resources lead to two-tier labour market reforms. This solution explains two-tier labour market reforms in Belgium, Denmark, France, Germany, Italy, the Netherlands and Sweden. In contrast, no two-tier labour market reforms can be observed in cases characterised by low initial levels of regulation of temporary employment (Austria, Finland, Great Britain and Ireland) or by the absence of institutional power resources (Great Britain,

Ireland, Portugal and Spain). Union membership composition and the strength of left parties do not seem to matter. The parsimonious, intermediate and complex solutions are identical. Hence, the solution equation is not affected by the treatment of logical remainders. Both consistency (0.89) and coverage (0.78) are very satisfactory. The solution equation can explain every country except Greece. Hence, Greece has to be considered an outlier of this analysis.

[Tables 5 and 6]

The solution equation is very robust to alternative calibrations. First, using the aforementioned 'low tech' calibrations of 'union membership composition' and 'strength of left parties' leads to the same solution equation. Again, the complex, intermediate and parsimonious solutions are identical.

Second, Table 7 documents the ten solution equations if the score of the case just above (below) the crossover value is changed to 0.49 (0.51) for the outcome and the four conditions. Overall, Table 7 shows that the solution equation is very robust to revisions of the calibration of the fuzzy sets. In six cases (rows 2, 3, 4, 6, 7 and 9), the solution equation is identical to the one displayed in Table 6. In three cases (rows 1, 8 and 10), the solution equation contains a second term next to the one displayed in Table 6. However, in all three cases, the unique coverage of the new term is very small. Only in one case is a relevant change discernible (row 5). If Denmark's membership in the fuzzy set 'strength of left parties' is recoded from 0.43 to 0.51, the solution equation changes into: $TEMP85 * IPR * LEFT + TEMP85 * IPR * member \rightarrow TWOTIER$. This equation can be rewritten as: $TEMP85 * IPR * (LEFT + member) \rightarrow TWOTIER$. Hence, the

original solution equation displayed in Table 6 ($TEMP85*IPR \rightarrow TWOTIER$) is still contained in the new solution equation. In addition, the parsimonious solution remains: $TEMP85*IPR \rightarrow TWOTIER$.

Finally, increasing the consistency threshold shows that the conjunction $TEMP85*IPR$ is the main empirical pattern in the data. With a consistency threshold of 0.81 (instead of 0.79), the solution equation turns into: $TEMP85*IPR*(LEFT + member) \rightarrow TWOTIER$. With a consistency threshold of 0.86, the solution equation turns into: $TEMP85*IPR*member \rightarrow TWOTIER$. With the highest possible consistency threshold (0.90), the solution equation turns into: $TEMP85*IPR*member*LEFT$.

[Table 7]

Until now, we have focused on institutional power resources. However, as discussed above, the fuzzy set 'institutional power resources' is the intersection of the two fuzzy sets 'union political involvement' (POLINV) and 'union administrative involvement' (ADMINV). Hence, we can replicate the analysis with two separate fuzzy sets for 'union political involvement' and 'union administrative involvement' rather than their intersection 'institutional power resources'. We prefer to use the intersection rather than the two separate fuzzy sets because the latter results in a very high number of logical remainders (22 of 32 possible rows in the truth table lack empirical data) and the higher number of conditions (5 conditions with 14 cases) entails the risk that fsQCA is no longer able to distinguish real empirical patterns from random data (see Marx (2010) for a discussion of benchmarks for the

number of conditions to cases). Nevertheless, if our argument is correct, we should expect to find the same result. With POLINV and ADMINV rather than IPR, the solution equation (intermediate solution) consists of two conjunctions. The first conjunction, TEMP85*POLINV*ADMINV, is identical to the result displayed in Table 6. The second conjunction, TEMP85*adminv*member*LEFT, is rather complex and has a unique coverage of only 0.05 (compared to the unique coverage of 0.54 of the first conjunction).¹¹ The only country covered by the second conjunction is Greece. Hence, we arrive at the same conclusion: The presence of high initial levels of regulation of temporary employment combined with the presence of institutional power resources lead to two-tier labour market reforms (except in Greece).

Having shown the relevance of our theoretical argument for a larger number of cases, we revisit the underlying causal mechanism at work and present some illustrations. In previous research (Davidsson 2011a; Davidsson & Emmenegger 2012), we have shown that unions have defended job protection legislation for open-ended contracts while compromising on the regulation of temporary employment in two most-dissimilar countries: Sweden and France. Sweden is known for having unions with very encompassing membership structures. Despite this, the strategic choices made by unions in reforms of the job protection legislation has been very similar to those that were made in France, a country with one of the least encompassing union structures in Europe.

In the late 1990s, the Swedish social-democratic government delegated negotiations on the reform of job protection legislation to unions and employers. Given high unemployment, employers demanded radical reform and across-the-board deregulation of job security

legislation. However, unions were unwilling to make any changes to the 'last in, first out' principle contained in the legislation of open-ended contracts. In other words, the negotiations were blocked because the unions protected their organisational interests. After the breakdown of the negotiations, the government turned to legislation in cooperation with the Centre party. When the issue of the 'last in, first out' principle was put on the table, unions successfully used their influence over social-democratic MPs to forestall the reform of the 'last in, first out' principle (Davidsson & Emmenegger 2012: 220-222). One MP, connected to the unions, explained that the new legislation, which entailed quite radical changes to the legislation on fixed-term contracts, was acceptable only because it did not challenge the 'last in, first out' principle (Dagens nyheter, 06.09.1996). The action of unions was thus key to understanding the reform outcome.

In France, negotiations between employers and unions in the mid-1980s followed a similar pattern with employers pressing for across-the-board deregulation of job security legislation and unions defending the existing legislation for open-ended contracts. Unlike their Swedish counterparts, the French unions and employers reached an agreement representing the same policy preferences of unions and employers as in Sweden. It made few changes to the legislation on open-ended contracts but increased the possibilities to use fixed-term contracts. However, despite the pro-insider orientation of the agreement and although French union membership composition was skewed towards labour market insiders, the union rank and file rejected the agreement. As a result, three out of four unions were unable to ratify the agreement. In this situation, the social-democratic government stepped in. The enacted legislation to a large extent followed the agreement struck between the unions and the employers (Davidsson &

Emmenegger 2012: 215-216). Unions thus managed to protect their organisational interest despite protests from the rank and file.

Great Britain provides an interesting negative case. In contrast to France and Sweden, British unions were unable to institutionalise their role in the administration of dismissals by the 1970s despite their inclusion in the policy-making process. Instead, their organisational interests were tied to legislation on unions' right to organise and to protest. Because new legislation proposed to enhance unions' rights had most often also contained provisions that limit their rights to organise and protest, unions' efforts were directed at limiting or reversing such provisions. Hence, unions' organisational interests were not tied to job protection legislation on open-ended contracts. With the arrival of the Thatcher government in the late 1970s, unions also lost their position in the policy-making process (Davidsson 2011a).

Conclusion

The debate on two-tier labour market reforms has largely focused on explanations that emphasise representational interests. It has been argued that unions consent to two-tier labour market reforms because their membership compositions are skewed towards labour market insiders. Alternatively, it has been argued that social-democratic parties engage in two-tier reforms because their core constituency are labour market insiders rather than labour market outsiders. In this article, we have demonstrated that there is little empirical evidence in support of these hypotheses.

Instead of focusing on representational interests, we have proposed an argument based on organisational interests. We have argued that unions consent to two-tier labour market

reforms if these concessions allow them to protect their institutional power resources. The two most important institutional power resources in the context of the reform of job protection legislation are unions' institutionalised roles in the administration of dismissals and deliberation of labour market policy reforms. Using fsQCA we have found that if a country is characterised by high initial levels of regulation of temporary employment and if this country's unions have institutional power resources to defend, then we observe two-tier labour market reforms.

The underlying causal mechanism is linked to the unions' need to act strategically in the face of political pressure to liberalize the labour market. We argue that unions, if under pressure, prioritise policy reforms that protect their long-term position of power. They do so even if these reforms come at the expense of short-term policy gains that would benefit union members.

Our findings have important implications for the way power is conceptualised and measured. On the conceptual level, following Moe (2005), we have emphasised the power implications of institutions. Unions consider at least the two following institutions as power resources: their institutionalised roles in the deliberation of labour market policy reform and in the administration of dismissals. We hold these institutional power resources to be independent from the power resources unions derive from their ability to mobilise members. France is a case in point with low levels of union density and strong union institutional power resources.

Hence, the measurement of union power cannot be limited to its capacity to mobilise members because traditional indicators of union power, most importantly union density, fail to capture institutional power resources. The literature on corporatism has provided indicators on union involvement in policy-making, i.e. the first institution in our conceptualisation of

institutional power resources. However, these indicators say little about how unions strategize over different reform alternatives. Hence, they need to be complemented by indicators that capture unions' interest in different types of policy or policy elements, i.e. the second institution in our conceptualisation of institutional power resources. We have made a first contribution to this effort by identifying and quantifying elements of legislation that capture unions' preferences for supporting the job protection legislation for open-ended contracts.

A focus on institutional power resources seems particularly promising in times when the power of unions, at least in the way power is traditionally conceptualised and measured, seems to be on the decline. Future research should attempt to identify institutional power resources in relation to different actors, different policies and different time periods.

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Endnotes

¹ The third option, protection of marginal workers, while allowing for the deregulation of job security legislation of the core workforce is very unlikely and will not be further discussed here.

² Rueda's (2007) argument is strongly influenced by the work of Przeworski and Sprague (1986),

² Rueda's (2007) argument is strongly influenced by the work of Przeworski and Sprague (1986), which have already emphasized the contradiction between winning elections and pursuing radical policies. In the context of job security legislation, electoral considerations make the political left emphasize insider interests over outsider interests.

³ In a similar vein, Korpi (1983) differentiates between basic and derived power resources. Korpi's (1983) basic power resources are identical to Traxler et al.'s (2001) primary power resources. According to Korpi (1983: 15), trade unions can invest their basic power resources in the creation of institutions to derive new types of power resources. However, just as Traxler et al. (2001), Korpi (1983: 15) highlights the secondary nature of derived power resources because the "ultimately depend on the basic power resources for their effectiveness".

⁴ This implies that the two sources of power are related to each other. The trade unions' ability to mobilize members is crucial in creating institutional power resources (Korpi 1983: 15). However, institutions, once created, can become *independent* power resources (Barnett and Duvall 2005: 51). In addition, institutional power resources can increase unions' "primary power resources" (Traxler et al. 2001: 74), for instance by serving as recruitment agents.

⁵ The 'few cases, many variables' problem is mainly caused by the explanatory conditions. Union membership composition and institutional power resources are constants or at best slow

moving. In such research designs, between variance exceeds within variance by a wide margin.

Hence, there is little point in exploring time-series variation.

⁶ URL: http://www.frdb.org/language/eng/topic/data-sources/dataset/international-data/doc_pk/9027 (accessed on June 28, 2011).

⁷ URL: <http://www.ilo.org/dyn/eplx/termmain.home>; <http://www.worker-participation.eu/National-Industrial-Relations> (accessed on August 9, 2011).

⁸ Following Ebbinghaus (2006), we define 'young' as persons below age 35.

⁹ We rely on Oesch (2006) in our measurement of low-service functionaries.

¹⁰ We prefer the geometric mean to the arithmetic mean because the latter artificially reduces variation by raising the minimum value.

¹¹ The complex solution is: TEMP85*POLINV*ORGINV + TEMP85*polinv*adminv*member*LEFT → TWOTIER. The first conjunction has a unique coverage of 0.65, while the second conjunction has a unique coverage of only 0.04. Hence, the second conjunction is empirically virtually irrelevant.