Maximizing Institutional Control

Union Power and Dismissal Protection in Western Europe in the First Half of the Twentieth Century

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Protection against arbitrary dismissal plays a fundamental role in securing workers' rights and safeguarding trade unions' position in the workplace. Following power resources theory, we should therefore expect the trade unions' power resources to co-vary with the regulation of dismissal protection. Simply put, strong unions should be able to enforce better protection against dismissal than weaker ones. However, it appears that when examining developments in the first half of the twentieth century, some of the historically strongest union movements have failed to provide much protection against dismissal. In contrast, workers in those countries with comparatively weak union movements have often benefitted from better protection.[1]

In trying to explain this counterintuitive relationship, many researchers point to Catholicism.[2] These researchers argue that political actors influenced by the conservative social doctrines of the Catholic Church are the primary advocates of dismissal protection. Hence, significant protection against dismissal can be observed only in countries with strong Catholic heritage or powerful Christian democratic parties. However, as I argue below, there is little reason to expect such a relationship between Catholicism and protection against dismissal. Rather, the reasons for the negative relationship between union power and protection against dismissal must lie elsewhere.

In this article, I argue that the low levels of dismissal protection in countries with strong union movements are the unintended consequence of the unions' interest in securing institutional control, which unions can maximize by regulating dismissal protection in collective agreements. In principle, there are two possibilities to regulate dismissal protection. In the case of statutory regulations, dismissal protection is the result of formal parliamentary decisions that result in legislative acts. Unions may be able to influence these decision-making processes through lobbying or participation in expert commissions.

In contrast, where dismissal regulations are enshrined in collective agreements, unions engage in direct negotiations with employers as to the content of regulations.

This direct involvement does not imply that unions can unilaterally determine the regulations. However, it does mean that unions can exert direct influence and do not need to work through other political actors (such as political parties). Importantly, the regulation of dismissal protection by means of collective agreements need not necessarily lead to enhanced protection against dismissal. Unions may face intransigent employers, and majority coalitions in parliament may support better protection against dismissal than what the unions might provide.

In examining labor history in Western Europe in the early twentieth century, what factors determined whether dismissal protection was subject to regulation in statutory law or collective agreements? I submit that the regulation of dismissal protection by means of collective agreements was possible only under two conditions. First, countries with civil law legal traditions had systematic sections on contract law in their legal codes long before the regulation of the employment contract (and by extension dismissal protection) became an important political issue in the late nineteenth century. The existence of these sections on contract law allowed these countries to simply extend their legal framework to the hitherto unregulated employment contract. In contrast, countries with common law legal traditions or non-systematic and incomplete civil codes had no regulations in place that could be easily extended to the employment contract. In these countries, there was a policy vacuum when the regulation of the employment contract and dismissal protection arrived on the political agenda.

Second, the regulation of dismissal protection by means of collective agreements was only possible in the presence of a strong and politically moderate union movement. Given employers' opposition to any restriction of their managerial prerogatives, the enforcement of any regulation on dismissal protection requires a strong union movement. In addition, employers are unlikely to agree to the joint regulation of dismissal protection if their contracting parties are perceived as ideological zealots or internally divided. In the nineteenth century, the union movements' strength and their degree of radicalism were crucially influenced by their history of industrial integration and by the state-society relationships current at the time. Union movements facing hostile states typically achieved their industrial integration comparatively late and became ideologically fragmented and politically radical. As a result, they failed to conclude encompassing collective agreements with employers.

Paradoxically, the regulation of dismissal protection progressed faster in statutory labor law than in collective agreements. Hence, those countries with weaker labor movements soon acquired higher levels of dismissal protection. The two world wars played an important role in this development. Both world wars resulted in a crisis of the political right, the temporary political ascendance of the political left, in particular in belligerent states, as well as massive economic damage, and thus opened the way to reform of labor regulations. Hence, in the immediate post-war years, we can observe the mushrooming of reforms of dismissal protection in countries with traditions of statutory regulation. The post-war crises also caused a political swing to the left in countries with traditions of regulating dismissal protection by means of collective agreements. However, the union movements in these countries refused to capitalize on their political

allies' newfound political power, failing to push for statutory protection against dismissal. Instead, they opted to retain institutional control and continue to rely on collective agreements as the means of regulating dismissal protection. Their success was limited. It was only during the 1960s, under pressure from the union rank-and-file, that union movements started to reconsider this position and move to advocacy of statutory dismissal protection.

This article, in an effort to contribute to the literature on the importance of institutional control,[3] offers a solution to an important puzzle in the comparative political economy literature: why did those countries who were early to develop sophisticated taxation and transfer systems lag behind in developing dismissal protection? The answer, I submit, can be found in the strategic choices unions make. Because collective agreements allow unions to maximize institutional control, strong union movements may refrain from pushing for the statutory regulation of dismissal protection. However, whether unions manage to obtain institutional control is also a function of the existing institutional and societal environment. What is more, these strategic choices may lead to unintended consequences because the effect of future developments is virtually impossible to predict.[4]

Union Power, Dismissal Protection, and Catholicism

Unions have a clear interest in dismissal protection. Both historically and today, market-restricting regulations have been one of the core demands of the European political left.[5] However, unions support dismissal protection for more than just ideological reasons. Unions also have strong organizational and representational interests in pursuing dismissal protection.[6] First, these regulations shield union members and union representatives against arbitrary dismissal by employers seeking to prevent the creation of local trade unions. If workers cannot be fired for union membership, unions will find it easier to organize the workforce, while employers will have to consider union interests in their management decisions. Dismissal protection regulations thus protect the union organization against unaccommodating employers.[7]

Next to protecting the unions' right to organize and represent workers, dismissal protection is also a source of union power. Successful campaigns to improve protection against dismissal enhance the job security and welfare of the workers represented by the unions. In addition, collective agreements often stipulate additional protective regulations such as longer notice periods, opportunities for retraining, and higher levels of severance pay. These regulations are normally restricted to workers covered by collective agreements, and their enforcement is sometimes dependent on trade union mobilization. As a result, workers face incentives to join unions, thus providing a boost to union power.[8]

Finally, dismissal protection regulations often give unions an important role in the administration of dismissals. 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 co-decide on social plans and retraining measures. Hence, unions participate

in managerial decisions. Union involvement in dismissals increases the role and the profile of unions at the firm level, and it also allows for preferential treatment of some workers over others.[9]

Given these considerations, it seems clear that unions should lend their support to dismissal protection policies, while employers should oppose them. Based on power resources theory, then, we should be able to observe a positive correlation between the power resources of the union movement and the level of protection against dismissal. However, dismissal protection was very weak in countries with historically strong union movements, such as Denmark, Great Britain, and Sweden in the mid-twentieth century, while workers in France, Germany, Italy, the Netherlands, and Switzerland have benefitted from enhanced protection, thanks to statutory measures.[10]

Table 1 provides data on the power of organized labor collected by Colin Crouch.[11] It documents the strong position of unions in Denmark and Sweden in the mid-twentieth century, where union density rates were more than 50 percent of the dependent labor force from 1950 onwards. Around 1900 Danish unions were already among the strongest in Western Europe. In contrast, Swedish unions were somewhat slower to organize the labor force; union density in 1900 was less than 4 percent. However, Sweden was a comparatively late industrializer. By the 1930s, Swedish union density rates had exceeded 50 percent of the dependent labor force.

Next to Denmark and Sweden, Great Britain was historically a stronghold of the union movement. As a frontrunner in terms of industrialization, Great Britain was the site of the first modern trade unions.[12] After the removal of some anti-union legislation in 1875, unionism increased dramatically, from around 11 percent in 1870 to 27 percent in 1914 (see Table 1), while British unions were also increasingly successful in using collective agreements to regulate employment conditions.[13] Hence, although

Table 1 Power of Organized Labor (Known Union Membership as a Percentage of Dependent Labor Force)

Country	1870	1900	1914	1925	1938	1950	1963
Denmark	1.81	12.31	19.72	35.96	38.05	53.47	64.68
France	0.33	5.01	3.45	7.60	33.66	23.89	20.71
Germany	0.55	3.84	17.24	28.39	n.a.[a]	34.58	37.15
Italy	n.a.	6.45	6.30	n.a.[a]	n.a.[a]	41.43	24.58
Netherlands	n.a.	n.a.	16.24	22.99	31.16	42.33	42.07
Sweden	n.a.	3.64	12.51	31.03	55.06	65.51	74.33
Switzerland	n.a.	n.a.	9.47	18.95	28.62	39.65	39.52
United Kingdom	11.32	16.49	26.89	31.83	36.86	45.44	48.49

Note: [a]All autonomous unions banned.

the British union movement began to lose its position as one of the strongest movements in the second half of the twentieth century, it was a union stronghold in the first half of the twentieth century.

The strength of the British, Danish, and Swedish union movements did not translate into high levels of dismissal protection, however. In fact, until the 1960s, British, Danish, and Swedish statutory labor law provided no protection against dismissal.[14] In these countries, protection against dismissal was solely a function of the stipulations in collective agreements, which, in actuality, provided little protection against dismissal.

The contrast between the Scandinavian and British situation and that of France, Germany, Italy, the Netherlands, and Switzerland is instructive. By the mid-twentieth century, these countries all had statutory regulations of minimum notice periods, provided (some) protection against arbitrary dismissal, and had introduced compensation payments in cases of wrongful or arbitrary dismissal. Germany, for example, had abolished the employers' freedom to dismiss. Instead, the 1951 German Dismissal Protection Act defined a list of specific grounds for which dismissal was still possible. Similarly, France and the Netherlands had introduced the principle of public authorization of dismissals, while Italy had (temporarily) banned dismissals in the post-war period altogether. Only in Switzerland did statutory protection against dismissal remain at the rudimentary level.[15]

While the statutory protection against dismissal was strengthened in these countries, their union movements remained comparatively weak. This is certainly true for the French, Italian, and Swiss union movements, but to some degree also the Dutch and German movements. Along with lower union density rates (see Table 1), these movements were also characterized by a stronger degree of ideological and organizational fragmentation than the British, Danish, and Swedish unions.[16] In all these countries, with their substantial Catholic populations, the union movements were divided into social democratic and Christian democratic (Catholic) factions. In the Netherlands and Switzerland, the social democratic unions faced additional Protestant challengers, while in France and Italy, the social democratic unions were in continual confrontation with powerful communist-led unions.[17]

By the mid-twentieth century, the negative correlation between union movement strength and protection against dismissal is unmistakable. Northern European union movements were more powerful than their Southern peers, while protection against dismissal was considerably stronger in continental Europe. How can we account for this difference?

In trying to account for cross-national differences in dismissal protection in the mid-twentieth century, researchers have often turned to Catholicism. For instance, Gøsta Esping-Andersen argues that the prevalence of statutory dismissal protection in continental Europe reflects the teachings of the Catholic Church, particularly, the content of the papal encyclicals.[18] Although the encyclicals do not explicitly mention dismissal protection, several statements can be read as evidence that the Catholic Church supports protection against dismissal. For instance, the encyclicals *Rerum Novarum* (1891) and *Quadragesimo Anno* (1931) criticize capitalism, scold heartless employers, highlight

the need for workplace cooperation, speak approvingly of the potential of labor law, and call for the protection of male breadwinners. In Esping-Andersen's account, these statements form a Catholic social doctrine that becomes part of the political culture in Catholic countries, thereby providing subjective orientation to all political actors. As a consequence, he argues, we can observe a positive correlation between Catholicism and dismissal protection, especially in Southern Europe.

Christian democratic parties are particularly important carriers of Catholic political culture. Several authors have therefore claimed a relationship between the strength of Christian democratic parties and dismissal protection. For example, Jonas Pontusson argues that "the prominence that the idea of job security has come to assume in Europe over the last two decades owes more to the ideological legacy of continental Christian Democracy than to the ideological legacy of Scandinavian Social Democracy."[19] In a similar vein, Jingjing Huo and his coauthors argue that the political orientation provided by the papal encyclicals as well as Christian democratic parties' preference for market clearing labor market policies pushes them to support employment-sustaining measures such as dismissal protection.[20]

The Catholicism thesis, however, has its shortcomings. In particular, the papal encyclicals are as critical of socialism as they are of capitalism. Hence, they do not give unequivocal support to restricting managerial prerogatives. While the papal encyclicals decry the situation of the workers, they nevertheless defend freedom of contract and private property, describe private ownership as a law of nature, and stress property acquisition as the main pathway out of poverty. In addition, they express a clear preference for free agreements between workers and employers, self-help, subsidiarity, and a reduced role of the state in family and social life. The encyclicals do not demand state intervention, but rather the strengthening of Christian values and voluntary cooperation across class boundaries. They offer no support for any hypothesis that the Catholic Church would support dismissal protection.[21]

If not for the social doctrines of the Catholic Church, it remains unclear why it is Christian democratic parties that would push for dismissal protection. Christian democratic parties may certainly be more critical of market processes and more supportive of workers' interests than, say, liberal-conservative parties. However, as typical cross-class parties of workers and employers, Christian democratic parties are likely to emphasize solutions that are acceptable to both constituencies. Hence, they are unlikely to push for regulations that are strongly opposed by employers.[22] The reason for the positive correlation between Catholicism and statutory dismissal protection must lie elsewhere.

Maximizing Institutional Control

Why did the considerable strength of the British, Danish, and Swedish union movements not translate into high levels of statutory dismissal protection? The answer, I argue, can be found in the trade unions' priority to maximize their institutional control

at the expense of statutory labor protection measures and by the unanticipated effects this strategy had on the development of protection against dismissal.

Quite generally, unions prefer regulations enshrined in collective agreements to statutory regulations.[23] For unions, regulation by means of collective agreements maximizes their control over the content of the rules.[24] The main alternative to collective agreements, statutory regulations, does not accord unions the same amount of influence. Rather, unions (and employers) can, at best, only contribute to the formal decision-making procedures in parliament through advocacy channels. In the worst case, political parties and governments can simply ignore the unions' preferences and make their own decisions. With their weak influence over the parliamentary process, Pepper D. Culpepper argues that both unions and employers are interested in retaining institutional control by relying on collective agreements:

> These social partners disagree on many points, but they both have an interest in limiting their conflicts in order to prevent state intervention. If the struggle actually moves to parliament, there is a risk the policy domain could be headed toward a permanently higher degree of formal regulation, with a consequent diminution of social partner influence.[25]

From an ideological point of view, unions would prefer dismissal protection regulated through statutory law to no regulation at all. However, statutory regulations do not provide unions with the same flexibility in devising rules for their own benefit. In fact, having obtained institutional control over the regulation of dismissal protection, unions might even oppose statutory regulations. As Reinhold Fahlbeck notes about the Swedish case, "the advantages that a union gains by achieving employment security through a collective agreement rather than through a statute might induce unions to ignore or oppose proposals for such statutes."[26]

Under what conditions were unions able to obtain and subsequently maintain institutional control? I argue that the unions' ability to regulate dismissal protection by means of collective agreements was shaped by two factors. First, in countries with civil law legal traditions, the state regulated the employment contract comparatively early using a body of contract law that was readily available. Under these historical circumstances, the employment contract was not considered to be any special contractual relationship.[27] Second, cooperation between employers and unions in keeping regulation under the wing of collective agreements was contingent on powerful union movements that were politically moderate and able to convince employers to cooperate. Let me discuss these two factors in more detail.

West European countries have different legal traditions.[28] In the context of dismissal protection, the most important difference between the civil law tradition, the dominant legal tradition in continental Europe, and other legal traditions concerns the existence of a systematic and complete section on contract law in the former. The French Civil Code, introduced in 1804 under Napoleon, already contained a detailed section on contract law.[29] Following the Napoleonic wars, the Civil Code was subsequently forced upon conquered areas that are now part of Germany, Italy, the Netherlands, and Switzerland.[30] Hence, at the time the employment contract was regulated (around 1900), countries with

strong civil law traditions could already rely on an established body of contract law. No additional contract law to cover labor relations was necessary.

In contrast, legal codification in Denmark, Great Britain, and Sweden was rather unsystematic and incomplete. Never conquered by Napoleon, the Scandinavian countries continued to rely on their traditional legal codes, adopting civil law elements only incrementally.[31] In contrast to Denmark and Sweden, Great Britain has a long labor law tradition, but British common law relies on a casuistic approach to the regulation of the employment relationship. Courts were mainly working out freedom of contract, leading to a considerable legal time lag.[32] As a result, Denmark, Great Britain, and Sweden, lagged behind the rest of Europe in adapting the legal regulation of the employment relationship to the industrial age.

The crucial point to take from this discussion is the fact that at the time the first regulatory regime was set up, the British, Danish, and Swedish unions faced a largely unregulated political arena. This absence of regulations is very different from the situation in France, Germany, Italy, the Netherlands, and Switzerland, where civil codes already contained sections on (general) contract law that were later extended, often without any changes, to the employment contract.

This early codification of the employment contract on the Continent filled what Colin Crouch calls the "policy space," the "range of issues over which general, universal decisions are made within a given political unit, particularly decisions which are seen by political actors to affect overall social order."[33] Put differently, there are a number of vital functions within a society that need to be carried out. If the state does not perform these functions, other actors will fill the policy space. Once some actors have achieved institutional control, these actors will then use their position to consolidate their control over a particular policy space.[34]

Hence, in the case of the regulation of the employment relationship, the British, Danish, and Swedish union movements were confronted with a largely unfilled policy space. Why were they able to fill it with collective agreements? The explanation can be found in the rather diverse societal environments in which the union movements emerged in the nineteenth century. Denmark, Great Britain, the Netherlands, Sweden, and Switzerland were relatively quick to remove any criminal sanctions against unions (taking levels of industrialization into account). In contrast, the industrial integration of the labor movement occurred relatively late and was more conflict-ridden in France, Germany, and Italy.[35]

The industrial integration of union movements is causally related to its fragmentation and radicalization. In countries where the emergence of the labor movement was met with state repression (France, Germany, and Italy), the movement typically split into bitterly divided reformist-socialist, revolutionary-socialist, and Christian democratic factions.[36] State repression also led to the radicalization of unions. As Streeck and Hassel note, where union organizing rights were gained relatively easily (Denmark, Great Britain, and Sweden), unions were soon able to achieve their economic objectives without political party backing. In countries where this was not the case, unionism became a more political affair, generally connected to the presence of a strong revolutionary

camp, and collective agreements played only a secondary role.[37] The Netherlands and Switzerland are intermediate cases. Although these union movements did not suffer from state repression, their fragmentation was rather extreme, as the religious unions further split into Catholic and Protestant ones.[38] However, consistent with the argument presented here, in the absence of state repression, Dutch and Swiss unions were politically moderate.

As shown above, union movement fragmentation and radicalization as well as the legal tradition in place are crucial in affecting unions' possibilities to gain institutional control over dismissal protection. Unions could fill the policy space only if they managed to conclude widespread collective agreements before the employment contract was first regulated in statutory labor law.

Once political actors have managed to obtain institutional control by filling the policy space, they will not give up their position of control. However, this begs the question of why political parties leave institutional control to unions and employers. Apart from arguments about path dependency, a further explanation for leaving institutional control to unions and employers can be found in the fact that there was no political majority for moving the regulation of dismissal protection to parliament. The statutory regulation of dismissal protection typically pits the political left against the political right. In this conflict, the unions support the left-wing parties, while employers support the right-wing parties. If dismissal protection is regulated by means of collective agreements, however, left-wing parties cannot hope for support from the unions because unions seek to maintain institutional control by keeping dismissal protection out of parliament. Hence, left-wing parties are likely to be politically isolated and have little interest in pushing for the statutory regulation of dismissal protection.

The unions' goal of maintaining institutional control, however, does not necessarily result in high levels of protection against dismissal. Even if unions manage to obtain institutional control, they must share it with employers who might prove to be unaccommodating. Hence, unions may fail to secure high levels of protection by means of collective agreements. This ambiguous relationship between institutional control and levels of protection has two important consequences.

First, the regulation of dismissal protection in collective agreements might lead to lower levels of protection than the regulation of dismissal protection by statutory law because left-wing parties might be more successful in pushing for the improvement of the statutory regulation of dismissal protection than unions are in securing better protection by means of collective agreements. As I argue below, this is exactly what happened in Western Europe. In the (brief) periods of economic and political crisis in the immediate post-war years (after both world wars), the political center of gravity shifted temporarily to the left in virtually all Western European countries. In countries with traditions of statutory regulation of dismissal protection, this empowerment of the political left led to the significant extension of protection against dismissal in the immediate post-war periods. In contrast, in countries with traditions of regulation by means of collective agreements, attempts to pressure employers to make concessions were not especially successful. In the meantime, union leaders were reluctant to yield institutional control over to the parliament. As a result, the statutory regulation

of dismissal protection in countries with weaker union movements led to these countries having higher levels of dismissal protection.[39]

Second, union members do not necessarily share the union leadership's preference for institutional control. From a worker's point of view, it is of secondary importance whether dismissal protection is regulated by means of collective agreements or by statutory law. What matters is the level of protection. Hence, if unions are not able to ensure sufficient protection by means of collective agreements, workers might grow critical of the unions' preference for agreements over legislation and start pushing for a change. Given that unions have to represent their members' interests in order to maintain membership, unions might have no choice but to demand statutory regulation of dismissal protection to satisfy the members' interest in better protection, even if this change of position comes at the expense of long-term interests (e.g., maintaining institutional control). As I show below, it was the result of protests by the union rank-and-file in the late 1960s that Danish and Swedish unions began to reconsider their position on the regulation of dismissal protection.

In sum, unions' interest in maximizing institutional control can explain the counterintuitive relationship between union power and dismissal protection. Unions, however, were able to obtain this institutional control only under two conditions: (1) the absence of a body of contract law that could be easily extended to include employment contracts and (2) the presence of a strong and politically moderate union movement able to engage in effective negotiations with employers. Under these conditions, left-wing parties in the post-war period successfully pushed for the extension of statutory dismissal protection, while unions struggled to achieve these concessions by approaching employers through collective agreements. Nevertheless, in Denmark, Sweden, and Britain, the unions were unwilling to give up institutional control. As a result, statutory protection against dismissal remained limited in these countries until the 1960s.

The Politics of Dismissal Protection

In this section, I discuss the historical development of dismissal protection in several Western European countries in the first half of the twentieth century. Due to space considerations, this section is unlikely to do justice to these often conflict-ridden and protracted political processes. Nevertheless, I hope to demonstrate the counterintuitive role of union power in the historical development of dismissal protection.[40]

Discussions of the historical development of dismissal protection typically start with the aftermath of World War I, with the enactment of the first laws protecting workers against dismissal. The most prominent example of these laws is the German Works Council Act of 1920, which Vogel-Polsky has famously called the "Trojan Horse in the citadel of employers' discretionary right to dismiss."[41] However, the roots of dismissal protection can be traced even further back, to the Napoleonic civil code (1804).

Dismissal protection, as we know it today, was made possible by the creation of the employment contract. Unlike previous regulations of the work relationship, which were based on status differences, the employment contract is based on the idea that employers

and workers are free and equal partners in determining the content of the employment contract. The pre-modern system had increasingly grown outdated and inadequate, as the rise of liberal ideas in the nineteenth century and the emerging factory system made necessary the development of employment relationships that were less personalized and more appropriate for an economic system based on industrial production.[42] In the modern system, workers and employers had freedom of contract, which implies that they were free to do as they wished, limited only by the will of other individuals.[43] In reality, this freedom of contract did not enable workers to engage in contractual negotiations on equal terms. However, until socialist doctrines had increasingly challenged this dominant liberal view, the employment contract was just like any other contract.

Countries with civil law legal traditions passed the first acts regulating the employment contract around 1900. Given that the employment relationship was considered a free and equal exchange of labor for a salary, the early laws gave employers unlimited rights to dismiss workers. Nevertheless, the notion of freedom of contract also opened the way toward a rudimentary form of dismissal protection in the form of contractual terms that reduced the uncertainty in economic exchanges. Such regulations included the definition of notice periods, which denote the period between notification and the actual end of the contractual relationship. Notice periods do not restrict the ability to terminate a contractual relationship. They only regulate the procedure and are thus a fundamental part of contract law, usage of which is not restricted to employment contracts. As Table 2 shows, at the beginning of the twentieth century, all civil law countries had introduced acts that regulated the employment contract and specified notice periods.[44]

Table 2 Statutory Regulations Concerning Notice Before 1920

Country	Law on contract of employment	Specific provision for notice
Denmark	No statutory regulation	—
France (civil law)	Law of 27 December 1890	Reference to custom
Germany (civil law)	Reich Trade Act 1896, Commercial Act 1897, Civil Code 1900	Maximum of 6 weeks depending on periodicity of wages
Great Britain	No statutory regulation	—
Italy (civil law)	Legislative Decree of 9 February 1919 (white-collar workers only)	15 days to 4 months
Netherlands (civil law)	Contract of Employment Act 1907	Maximum of 6 weeks depending on periodicity of wages
Sweden	No statutory regulation	—
Switzerland (civil law)	Code of Obligations 1881 (revised in 1911)	2 months after one year of employment

Why were the civil law countries comparatively early to regulate the employment contract by statutory law? The explanation can be found in the legal reasoning that viewed the employment contract as similar to any other type of contract. As noted above, countries with strong civil law legal traditions already possessed an established body of contract law based on the French Civil Code of 1804, which was spread across parts of Europe in the wake of the Napoleonic wars (1803–1815). Hence, for France, Germany, Italy, the Netherlands, and Switzerland, the regulation of the employment contract was simply the application of existing contract law to the employment contract. However, because notice periods are a central part of any contract law and thus not specific to employment contracts, these early codifications of the employment contract already contained some elements of dismissal protection. The original notice period of contract law became a form of dismissal protection when applied to the employment relationship.

In contrast to the civil law countries, the British, Danish, and Swedish states refrained from regulating the employment relationship, with the exception of regulations for specific groups of workers, such as domestic servants. Instead, it was the British, Danish, and Swedish unions that undertook regulation of the employment relationship by means of collective agreements with employers. The most famous example of such corporatist regulation of the employment relationship is the Danish 1899 September Agreement. After industrial conflicts in 1899, unions and employers reached an agreement on employers' recognition of the trade unions' right to organize. In return, the Danish unions recognized freedom of contract and thus the employers' right to lead and distribute labor.[45] In Sweden, a similar agreement was reached in 1906.[46] The political parties in Denmark and Sweden accepted this arrangement. Hence, Henning Jørgensen argues that this was a first step toward the labor market organizations developing a strong sense of "ownership" of labor market policy.[47] Policies formed by states in southern Europe were set up by collective negotiations in Denmark and Sweden.

Like Denmark and Sweden, Great Britain relied on collective agreements to regulate the employment relationship. Great Britain was the frontrunner in terms of industrialization and also the place where workers founded the first modern trade union. As early as 1824, British workers were allowed to unite for the negotiation of working conditions and salaries. The repeal of anti-union legislation in the second half of the nineteenth century led to a boom in unionism.[48] British unions were strikingly successful in using these new opportunities to secure minimum standards for employment conditions through collective agreements. Hence, British unions were able to regulate employment conditions before British statutory labor law had consistently adopted a contractual model for the regulation of employment relationships.[49] Given the unions' ability to obtain institutional control over the regulation of employment relationships, "all they wanted from government was the right to look after themselves through free collective bargaining."[50] Otto Kahn-Freund, therefore, describes British labor market policy as "collective laissez-faire," in which statutory labor law remained "in a sense, a gloss or a footnote to collective bargaining."[51]

Hence, there are important cross-national differences in the first regulation of the employment contract and, by extension, dismissal protection. While France, Germany, Italy, the Netherlands, and Switzerland used statutory labor law to regulate the employment relationship, statutory labor law played virtually no role in Denmark, Great Britain, and Sweden. Two factors explain these differences in the origins of dismissal protection measures: the presence of existing civil law codes that contained systematic sections on contract law that facilitated statutory regulation of employment contracts, and the strong and politically moderate union movements that were able to jump into the policy vacuum before the regulation of the employment relationship could be made subject to statutory labor law.[52]

The creation of the first regulatory regime took place before wars devastated much of Europe. The two world wars brought much human misery, but they also opened the door to reform. The immediate post-war years are classic examples of critical junctures, defined by Giovanni Capoccia and Daniel Kelemen as "relatively short periods of time during which there is a substantially heightened probability that agents' choice will affect the outcome of interest."[53]

The immediate post-war years were characterized by the simultaneous occurrence of three events, which in various ways affected each of these countries. First, the world wars discredited large parts of the political right, especially in those countries that had been allied with Nazi Germany. The right-wing groups were identified as the main drivers of war and therefore considered responsible for the human suffering caused by the war. Second, the world wars empowered the political left, including the radical left, as they had been among the main opponents of war and because of their role in the resistance movements against Nazi occupation. Finally, the disastrous economic situation in the immediate post-war years caused many citizens to question capitalism's virtues and demand more state intervention. As a result, the immediate post-war years provided fertile ground for radical reforms of labor market regulation.[54]

Not all European countries were equally shaken by the consequences of the two world wars. Among the eight countries analyzed here, Germany was most affected by World War I (defeat, collapse of empire, loss of territory, reparation agreements), although tensions were certainly also high in post-World War I Italy.[55] World War II had serious humanitarian and economic consequences for Denmark, France, Germany, Italy, and the Netherlands, which were either temporarily occupied or ultimately defeated. In addition, in these countries large parts of the political and economic establishment were discredited after the war due to their support for the fascist regime or their collaboration with the occupying Nazi forces. In contrast, victorious Great Britain, as well as neutral Sweden and Switzerland, managed to avoid the most disastrous consequences of war, including occupation.

Following World War II, all eight of these countries experienced an empowerment of the political left, but only in France, Germany, Italy, and the Netherlands did the political left take advantage of the chaotic and radicalized post-war situation to enforce significant protection against dismissal.[56] For instance, France and the Netherlands introduced the principle of public authorization of dismissals for economic reasons, Italy

temporarily banned dismissals in the post-war period, while Germany abolished the employers' freedom to dismiss.[57]

In contrast, Denmark, Great Britain, Sweden, and Switzerland refrained from any reform of dismissal protection in the post-war years. This is particularly striking in the British, Danish, and Swedish cases, because the Labour Party ruled Great Britain in a single-party government from July 1945 to October 1951, the Danish Social Democratic Party supplied the Prime Minister in 1945 and again from 1947 to 1950, and in Sweden, the political left controlled more than 50 percent of the vote (and was continuously in power from 1936 to 1976). Hence, the window for the statutory regulation of dismissal protection in these labor-dominated countries was wide open. Yet no statutory legislation on dismissal protection was passed. How can this inactivity be explained?

British and Swedish unions, unlike their Dutch, French, German, and Italian counterparts, consciously refused to pursue far-reaching legal interventions into the labor market.[58] Instead, the union movements in these countries focused on incremental improvements of dismissal protection within the framework of collective agreements. Here they were met with limited success.[59] However, this strategy allowed unions to retain institutional control over the regulation of the labor market. Only in the second half of the twentieth century did union leaders finally begin considering the possibility of renouncing their institutional control in return for better statutory protection against dismissal. However, this change of heart took place in a rather different context and was only due to sustained pressure from the union rank-and-file.

Hence, the opportunity to have statutory regulation is not enough; unions must also prefer statutory regulation to collective agreements. As Table 3 shows, even among the five countries that experienced occupation or defeat during World War II, only those countries with a prior tradition of regulating dismissal protection by means of statutory law passed new acts in the immediate post-war period. In contrast, Denmark, despite five years of Nazi occupation during World War II and left-wing governments in the immediate post-war period, refrained from enacting any statutory regulations protecting workers against dismissal.

Table 3 Occupation and Defeat in World War II and the First Regulation of Dismissal Protection

	First regulation of dismissal protection	
	Statutory law	Collective agreements
Occupation/defeat during World War II	France, Germany[a], Italy, and the Netherlands	Denmark
No occupation during World War II	Switzerland	Great Britain and Sweden

Note: [a] In Germany, already defeat in World War I led to a political crisis and the reform of dismissal protection.

However, the desire to maintain institutional control is not sufficient to explain why labor-friendly governments with strong union movements did not enact dismissal protection laws. Rather, exogenous events such as wars also played an important role. A brief discussion of the Swiss case makes this clear. Switzerland is part of the civil law family of nations, having enacted a regulatory regime for employment contracts as early as 1881. By 1914, Switzerland had significant notice periods and had banned dismissals in case of disablement or compulsory military service.[60] However, Switzerland remained neutral during both world wars and was never occupied by foreign powers. Although dismissal protection was on the political agenda after both world wars, the Swiss political left never had the clout to compel the government to enact regulatory reforms, and protection against dismissal remained limited in this civil law country.[61]

As a result, in the 1950s and 1960s dismissal protection was weak where unions were comparatively strong. It was only in the late 1960s and, particularly, the 1970s that this situation began to change. In Denmark, Great Britain, and Sweden, the statutory regulation of dismissal protection finally came onto the political agenda, leading to political reforms in Great Britain and Sweden (but not Denmark).[62] In all three countries, however, the main impetus for reform did not come from the union leadership. Rather, it was the union rank-and-file (Denmark and Sweden) or the government (Great Britain) that pushed for statutory dismissal protection in order to deal with increasingly rapid industrial restructuring and the resulting industrial conflicts over discharges. Only after pressure from below or above were the unions willing to compromise their institutional control and allow for improved statutory protection against dismissal.[63]

Conclusion

Why was dismissal protection in general and statutory dismissal protection in particular in the mid-twentieth century so weak in those countries with historically strong union movements? This counterintuitive outcome can be explained as the result of an interplay between union strategies, legal traditions, state-society relationships, and critical junctures. Given that political actors have an interest in institutional control, unions are likely to prefer that regulation of dismissal protection takes place under the wing of collective agreements. However, achieving this form of regulation was only possible under unique circumstances. First, it required a strong and politically moderate union movement that could conclude collective agreements with employers. Second, union influence was effective only in the absence of a complete body of contract law that could be easily applied to employment relationships. Such conditions existed in Denmark, Great Britain, and Sweden. Hence, to understand the emergence of labor policies, we need to focus on the nature of institutional control, the strategic choices that political actors make to maximize this institutional control, and how the existing institutional and societal environment shapes these strategic choices.

The first regulation of dismissal protection by means of collective agreements had unanticipated consequences: as the regulation of dismissal protection progressed faster

in statutory labor law than in collective agreements, those countries with weaker union movements soon acquired higher levels of dismissal protection. The two critical junctures created by the world wars played an important role in this development, as they opened a window for political reform in the countries most affected by the wars. Hence, in the immediate post-war years, we can observe a mushrooming of reforms of dismissal protection in France, Germany, Italy, and the Netherlands, i.e., those countries with weaker union movements. The post-war crises also caused a surge of political power of the left in the highly unionized countries: Denmark, Great Britain, and Sweden. However, these countries' union movements refused to capitalize on their political allies' new political power by pushing for statutory protection against dismissal. Instead, they opted to retain institutional control and continued to regulate dismissal protection by means of collective agreements. This article thus shows once again that even the most strategic choices may still have unanticipated consequences.

Hence, the empirical analysis demonstrates that the prevalence of statutory dismissal protection in continental Europe cannot be attributed to any sort of Catholic social doctrine. Rather, strong dismissal protection in continental Europe is the consequence of weak unions—fragmented and radicalized—as well these countries' civil code traditions. Yet, there is an indirect effect of Catholicism on dismissal protection. As researchers have repeatedly demonstrated, Catholicism is one of the major causes of the fragmentation and radicalization of the union movements.[64] Moreover, Catholicism is also causally related to the presence of civil law codes because the civil law legal tradition has its roots in Roman law.[65] This article thus encourages researchers to also consider the role of other political cleavages, such as the state-church cleavage, that are often overlooked in power-oriented approaches to institutional change.

NOTES

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1. I focus only on dismissal protection for private sector employees because dismissal protection for other groups (e.g. public sector employees and seamen) is typically regulated by separate acts.

2. Gøsta Esping-Andersen, "Welfare States Without Work: The Impasse of Labour Shedding and Familialism in Continental European Social Policy," in Gøsta Esping-Andersen, ed., *Welfare States in Transition: National Adaptations in Global Economies* (London: Sage, 1996), 66–87; Gøsta Esping-Andersen, *Social Foundations of Postindustrial Economies* (Oxford: Oxford University Press, 1999); Jonas, Pontusson, *Inequality and Prosperity: Social Europe vs. Liberal America* (Ithaca: Cornell University Press, 2005); Yann Algan and Pierre Cahuc, "Job Protection: The Macho Hypothesis," *Oxford Review of Economic Policy,* 22 (Autumn 2006), 390–410; Jing Jing Huo, Moira Nelson, and John D. Stephens, "Decommodification and Activation in Social Democratic Policy: Resolving the Paradox," *Journal of European Social Policy,* 18 (February 2008), 5–20; Martin Seeleib-Kaiser, Silke van Dyk, and Martin Roggenkamp, *Party Politics and Social Welfare: Comparing Christian and Social Democracy in Austria, Germany and the Netherlands* (Cheltenham: Edward Elgar, 2008).

3. In particular Pepper D. Culpepper, *Quiet Politics and Business Power* (Cambridge: Cambridge University Press, 2011).

4. The data used in this article on reforms in eight Western European countries (Denmark, France, Great Britain, Germany, Italy, the Netherlands, Sweden, and Switzerland) originate from a research project that documents the historical development of dismissal protection in Western European countries with long traditions of democratic government from the late 19th century until today. Cases have been selected to reflect variation on all relevant independent variables, including, among others, models of capitalism, denomination, union power, and legal traditions. The universe of cases is restricted to West European countries with long traditions of democratic government. For a detailed documentation and analysis of all major reforms of dismissal protection from the late 19th century until today, see Patrick Emmenegger, *The Power to Dismiss: Trade Unions and the Regulation of Job Security in Western Europe* (Oxford: Oxford University Press, 2014).

5. Donald Sassoon, *One Hundred Years of Socialism: The West European Left in the Twentieth Century* (London: I.B. Tauris, 2010); Walter Korpi, *The Democratic Class Struggle* (London: Routledge & Kegan Paul, 1983).

6. Johan Bo Davidsson and Patrick Emmenegger, "Insider-Outsider Dynamics and the Reform of Job Security Legislation," in Giuliano Bonoli and David Natali, eds., *The Politics of the New Welfare State* (Oxford: Oxford University Press, 2012), 206–29; Johan Bo Davidsson and Patrick Emmenegger, "Defending the Organisation, not the Members: Unions and the Reform of Job Security Legislation in Europe," *European Journal of Political Research,* 53 (May 2013), 339–63.

7. Miriam Golden, *Heroic Defeats: The Politics of Job Loss* (Cambridge: Cambridge University Press, 1997).

8. Mancur Olson, *The Logic of Collective Action: Public Goods and the Theory of Groups* (Cambridge: Harvard University Press, 1965).

9. Reinhold Fahlbeck, "Interests: A Union Battle for Survival?" *Stanford Journal of International Law,* 20 (Fall 1984), 295–327.

10. Protection against dismissal is still comparatively weak in Denmark and Great Britain, while reforms in the 1970s have significantly expanded protection against dismissal in Sweden. Patrick Emmenegger, "The Long Road to Flexicurity: The Development of Job Security Regulations in Denmark and Sweden," *Scandinavian Political Studies,* 33 (September 2010a), 271–94.

11. Colin Crouch, *Industrial Relations and European State Traditions* (Oxford: Clarendon Press, 1993), 73–74, 96–97, 116–17, 146–48, 170–71, 197–99, 224–25.

12. Antoine Jacobs, "Collective Self-Regulation," in Bob Hepple, ed., *The Making of Labour Law in Europe: A Comparative Study of Nine Countries up to 1945* (London: Mansell, 1986), 193–241, 216; Gerhard A. Ritter, *Der Sozialstaat: Entstehung und Entwicklung im internationalen Vergleich*, *2nd ed.* (München: Oldenbourg, 1991), 57–58; Bernhard Ebbinghaus, "The Siamese Twins: Citizenship Rights, Cleavage Formation and Party-Union Relations in Western Europe," in Charles Tilly, ed., *Citizenship, Identity and Social History* (Cambridge: Cambridge University Press, 1995), 51–89, 61.

13. Thilo Ramm, "Laissez-faire and State Protection of Workers," in Bob Hepple, ed., *The Making of Labour Law in Europe: A Comparative Study of Nine Countries up to 1945* (London: Mansell, 1986), 73–113; Wolfgang Streeck, "Skills and Politics: General and Specific," in Marius Busemeyer and Christine Trampusch, eds., *The Political Economy of Collective Skill Formation* (Oxford: Oxford University Press, 2012), 317–52; Gary Marks, *Unions in Politics: Britain, Germany, and the United States in the Nineteenth and Early Twentieth Century* (Princeton: Princeton University Press, 1989).

14. E. Herz, "The Protection of Employees. On the Termination of Contracts of Employment," *International Labour Review,* 69 (April 1954), 295–320, 300; Eliane Vogel-Polsky, "The Problem of Unemployment," in Bob Hepple, ed., *The Making of Labour Law in Europe: A Comparative Study of Nine Countries up to 1945* (London: Mansell, 1986), 154–92, 183. In the case of Denmark, this statement is only true for blue-collar workers. The employment relationship of white-collar workers was regulated by an act from 1938. However, note that this act strictly followed the stipulations contained in collective agreements for blue-collar workers.

15. Herz, 312–14; Maurizio Ferrera and Elisabetta Gualmini, *Rescued by Europe? Social and Labour Market Reforms in Italy from Maastricht to Berlusconi* (Amsterdam: Amsterdam University Press, 2004), 36; Engeline Grace van Arkel, *A Just Cause for Dismissal in the United States and the Netherlands: A Study on the Extent of Protection against Arbitrary Dismissal for Private-Sector Employees under American and Dutch Law in the Light of Article 4 of ILO Convention 158* (Erasmus University Rotterdam: Unpublished PhD thesis, 2007), 168–205; Patrick Emmenegger and Paul Marx, "Business and the Development of Job Security Regulations: The Case of Germany," *Socio-Economic Review*, 9 (October 2011), 729–56; Emmenegger, 2014, 108–21.

16. Ebbinghaus, 77, 80. British unions were also organizationally fragmented. However, unlike many continental unions, the British unions were fragmented along craft rather than ideological lines. In addition, they were also ideologically less radical.

17. Union density rates were comparatively high in Germany in the early twentieth century. In addition, German unions were not disproportionately fragmented (like the Dutch ones). However, unlike the Netherlands, the German state was slow to recognize unions. Hence, in the years up to World War I, collective bargaining did not play a significant role. See Klaus Armingeon, *Staat und Arbeitsbeziehungen: Ein internationaler Vergleich* (Opladen: Westdeutscher Verlag, 1994), 57–59.

18. Esping-Andersen, 1996, 1999.

19. Pontusson, 217.

20. Huo et al., 10, 17–18.

21. All papal encyclicals are available at: http://www.papalencyclicals.net.

22. Stathis N. Kalyvas and Kees van Kersbergen, "Christian Democracy," *Annual Review of Political Science,* 13 (May 2010), 183–209, 198.

23. Otto Kahn-Freund, *Labour and the Law* (London: Stevens, 1977); Fahlbeck; Jacobs; Keith Sisson, *The Management of Collective Bargaining. An International Comparison* (Oxford: Blackwell, 1987).

24. Terry Moe, "Political Institutions: The Neglected Side of the Story," *Journal of Law, Economics and Organization,* 6 (April 1990), 213–53.

25. Culpepper, 183.

26. Fahlbeck, 197. Historically, unions have been critical of any kind of state intervention due to a general distrust of state institutions, as most famously expressed by Marx and Engels in the communist manifesto: "The executive of the modern state is but a committee for managing the common affairs of the whole bourgeoisie."

27. Bruno Veneziani, "The Evolution of the Contract of Employment," in Bob Hepple, ed., *The Making of Labour Law in Europe: A Comparative Study of Nine Countries up to 1945* (London: Mansell, 1986), 31–72, 57; Nicola Countouris, *The Changing Law of the Employment Relationship: Comparative Analyses in the European Context* (Hampshire: Ashgate, 2007), 19.

28. Juan C. Botero, Simeon Djankov, Rafael La Porta, Florencio Lopez-de-Silanes, and Andrei Shleifer, "The Regulation of Labor," *Quarterly Journal of Economics,* 119 (November 2004), 1139–382.

29. Veneziani, 55.

30. Robert B. Holtman, *The Napoleonic Revolution* (Baton Rouge: Louisiana State University Press, 1978).

31. Bernhard Gomard, "Civil Law, Common Law and Scandinavian Law," *Scandinavian Studies in Law* 5 (1961), 27–38, 35; Jacob W.F. Sundberg, "Civil Law, Common Law and the Scandinavians," *Scandinavian Studies in Law*, 13 (1969), 179–205, 201; Axel Adlercreutz, "Sweden," in Roger Blanpain, ed., *International Encyclopaedia for Labour Law and Industrial Relations* (Deventer: Kluwer, 1998), 20; Ole Hasselbalch, "Denmark," in Roger Blanpain, ed., *International Encyclopaedia for Labour Law and Industrial Relations* (Deventer: Kluwer, 2005), 30.

32. Veneziani, 60–61; Countouris, 19.

33. Crouch, 297.

34. Giuliano Bonoli, "Social Policy Through Labor Markets: Understanding National Differences in the Provision of Economic Security to Wage Earners," *Comparative Political Studies,* 36 (November 2003), 1007–30.

35. Armingeon; Ebbinghaus.

36. Ebbinghaus; Stefano Bartolini, *The Political Mobilization of the European Left, 1860–1980* (Cambridge: Cambridge University Press, 2000).

37. Wolfgang Streeck and Anke Hassel, "Trade Unions as Political Actors," in John T. Addison and Claus Schnabel, eds., *International Handbook of Trade Unions* (London: Edward Elgar, 2003), 335–65, 338–39; Marks, 21; Ebbinghaus, 84.

38. Ebbinghaus, 77, 80.

39. Importantly, political reform in the post-war periods was only possible because the two world wars had led to the temporary empowerment of the left. The reforms were not the result of the post-war economic crises. In a similar vein, the economic crisis of the 1930s did not result in any reform of dismissal protection.

40. For a more detailed discussion, including an analysis of the content of reforms, the regulation of temporary employment, and the interwar period, see Emmenegger, 2014.

41. Vogel-Polsky, 189. Similar laws were enacted in Austria and Czechoslovakia.

42. Veneziani; Countouris, 16.

43. Ramm.

44. Sources: Herz, 300; Hans Peter Tschudi, *Geschichte des schweizerischen Arbeitsrechts* (Basel: Helbling & Lichtenhahn, 1987), 26–28; Vogel-Polsky, 182.

45. Walter Galenson, *The Danish System of Labor Relations: A Study in Industrial Peace* (Cambridge: Harvard University Press, 1952).

46. Adlercreutz, 37.

47. Henning Jørgensen, *Consensus, Cooperation and Conflict: The Policy-Making Process in Denmark* (Cheltenham: Edward Elgar, 2002), 171.

48. Jacobs, 216, 221; Ritter, 57–58; Ebbinghaus, 61.

49. Ramm; Marks; Ritter; Simon Deakin, "The Evolution of the Contract of Employment, 1900–1950: The Influence of the Welfare State," in Noel Whiteside and Robert Salais, eds., *Governance, Industry and Labour Markets in Britain and France* (London: Routledge, 1998), 212–30.

50. Streeck, 2012, 317.

51. Otto Kahn-Freund, "Legal Framework," in Allan Flanders and Hugh A. Clegg, eds., *The System of Industrial Relations in Great Britain: Its History, Law and Institutions* (Oxford: Basil Blackwell, 1954), 42–127, 66.

52. Importantly, legal traditions do not determine whether the employment contract is regulated by means of statutory labor law or collective agreements. For instance, the statutory regulation of the employment occurred comparatively late in Italy. However, the fragmented and radicalized Italian union movement was not able to take advantage of this late statutory regulation. In a similar vein, Norway, although not a civil law country, did not follow the Danish and Swedish example of regulating dismissal protection by means of collective agreements. Rather, inspired by the German Works Council Act of 1920, Norway passed an act in 1936 that prohibited dismissals not based on objective grounds and introduced compensation payments in case of arbitrary dismissals. On Norway, see Tore Sigeman, "Employment Protection in Scandinavian Law," in Peter Wahlgren, ed., *Stability and Change in Nordic Labour Law* (Stockholm: Almqvist and Wiksell International, 2002), 257–75.

53. Giovanni Capoccia and Daniel Kelemen, "The Study of Critical Junctures. Theory, Narrative, and Counterfactuals in Historical Institutionalism," *World Politics,* 59 (April 2007), 341–69, 348.

54. Wolfgang Streeck, "The Crises of Democratic Capitalism," *New Left Review,* 71 (September–October 2011), 5–29.

55. Sassoon, 27–59.

56. Germany already introduced statutory protection against dismissal after World War I (the 1920 Works Council Act). Protection was subsequently extended after World War II, resulting in the 1951 Dismissal Protection Act. In the German case, the argument presented here applies to both immediate post-war periods.

57. Herz, 312–14; Ferrera and Gualmini, 36; van Arkel, 168–205; Emmenegger and Marx; Emmenegger, 2014, 108–21.

58. Paul Davies and Mark Freedland, *Labour Legislation and Public Policy* (Oxford: Clarendon Press, 1993); Jesper Due, Jørgen Steen Madsen, Carsten Strøby Jensen, and Lars Kjerulf Petersen, *The Survival of the Danish Model: A Historical Sociological Analysis of the Danish System of Collective Bargaining* (Copenhagen: DJØF, 1994); Jørgensen; Peter A. Swenson, *Capitalists Against Markets. The Making of Labor Markets and Welfare States in the United States and Sweden* (Oxford: Oxford University Press, 2002); Chris Williams, "Britain in Historical Perspective: From War Concertation to the Destruction of the Social Contract," in Stefan Berger and Hugh Compston, eds., *Policy Concertation and Social Partnership in Western Europe: Lessons for the 21st Century* (New York: Berghahn, 2002), 51–62; Emmenegger, 2010a.

59. Herz, 307–08. From the 1920s onwards, the Swedish union movement had begun to reduce its emphasis on dismissal protection, emphasizing instead productivity growth and welfare state expansion in what later came to be called the "Rehn-Meidner model," Nevertheless, in the aftermath of World War II, Swedish unions demanded improved protection against dismissal. However, the 1947 revision of the Saltsjöbaden agreement contained only minor improvements. See Herz, 307–08; Adlercreutz, 101.

60. Tschudi, 36.

61. Patrick Emmenegger, "Low Statism in Coordinated Market Economies: The Development of Job Security Regulations in Switzerland," *International Political Science Review,* 31 (March 2010b), 187–205, 194–98.

62. Some of these British reforms were subsequently repealed by consecutive conservative governments after 1979.

63. Davies and Freedland; Svante Nycander, *Makten över arbetsmarknaden* (Stockholm: SNS Förlag, 2008); Emmenegger, 2010a.

64. Crouch; Bonoli; Philip Manow and Kees Van Kersbergen, *Religion, Class Coalitions, and Welfare States* (Cambridge: Cambridge University Press, 2009).

65. Edward L. Glaeser and Andrei Shleifer note that "the civil law tradition has its roots in the Roman law, [which] was lost during Dark Ages, but rediscovered by the Catholic Church in the eleventh century and adopted by several continental states, including France." French civil law was subsequently exported to other continental European countries during the Napoleonic wars. Edward L. Glaeser and Andrei Shleifer, "Legal Origins," *Quarterly Journal of Economics,* 117 (November 2002), 1193–229, 1193.