

Studies in Contemporary European History

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OF FIRMS AND FLEXIBILITY

The Dynamics of Collective Bargaining Reform in Spain and Portugal



Sara Watson

Although in recent years a great deal has been written within the field of comparative political economy on the preferences of employers, the focus of most of this work has been on why we should expect employers to pursue greater flexibility in labor relations.¹ The dominant literature in this vein suggests that since Fordist modes of production have given way to diversified quality production, the centralization of bargaining and other forms of “rigid” labor market institutions have become an impediment—rather than an aid—to growth. Hence, employers, faced with increasing pressures to compete in international markets, are increasingly favoring a liberalized labor market.

As some scholars have pointed out, however, the absence of any clear trend toward bargaining decentralization across advanced industrialized countries has been striking (Wallerstein and Golden 2000; Traxler, Blaschke, and Kittel 2001). After nearly a decade of major international organizations such as the OECD extolling the virtues of decentralized and liberalized labor markets, one of the most dramatic changes in European political economies in recent years has been the reemergence of centralized forms of wage determination (Hassel 2003). This clearly begs the question of when and why employers make the choices that they do concerning centralized wage negotiation. Under what conditions do employers cooperate with unions to protect centralized bargaining, and under what conditions do they choose to repudiate such systems? When presented with the opportunity to flexibilize labor relations, why might employers choose to maintain the status quo? This chapter examines the recent efforts of Spanish and Portuguese governments to promote more extensive

firm-level collective bargaining by empowering employers over unions, thereby shedding light on when and why employers might choose to support or repudiate centralized forms of collective bargaining.

By the late 1990s, governments in both Spain and Portugal had come to similar conclusions about the problems plaguing their collective-bargaining systems: they were overly centralized and suffering from excessive state regulation. The stated position of governments in the two countries was that bargaining should be decentralized so that firms could be given greater latitude to use wages to reward productivity and so that they could actively negotiate a reorganization of work processes.

The responses of employers to these common governmental efforts to encourage the liberalization of collective bargaining, however, have been quite different. Whereas Portuguese employers took the opportunity presented by government action to declare war on the existing system and are currently promoting a shift to a model of "disorganized decentralization," Spanish employers chose not to attack the existing system. Instead, what we have seen in Spain in the past ten years is the maintenance of the status quo with respect to collective-bargaining institutions. Sectoral bargaining at the provincial level remains the norm, and unions and employers have largely refrained from implementing major changes relating to internal labor-market flexibility.

In accounting for the divergent responses of Spanish and Portuguese employers to the liberalizing opportunities granted them by their respective governments, this chapter advances two related claims about employers and the politics of collective bargaining. First, in contrast to existing literature, which tends to focus on employers' need for flexibility along a single dimension—typically, the need to use salary dispersion in order to reward productivity gains—I argue that there exist several dimensions of flexibility, including internal, functional, external, and salary flexibility.² Although employers are likely to care about all of the dimensions of flexibility just mentioned, quite sensibly, they may also be willing to trade off greater flexibility in one dimension for areas that they care more about in another dimension.

Indeed, these multiple rigidities explain the divergent collective-bargaining outcomes in Iberia. In Spain, unions were able to capitalize on the fact that employers enjoyed very little flexibility in two key areas—macroeconomic wage moderation and firing costs—and offered employers tradeoffs in these areas in exchange for leaving the existing system of collective bargaining untouched. In Portugal, where employers already enjoyed a fair amount of flexibility in these areas, employers were much less willing to compromise in the area of collective-bargaining reform. Thus, whereas Spanish employers entered into a bargain of political exchange

with unions in which they traded off more flexibility in one area (external flexibility) for limitations on flexibility in another (internal flexibility) via the decentralization of bargaining), Portuguese employers pushed aggressively for bargaining decentralization.

The remainder of the chapter proceeds in four steps. The next section shows that explanations of collective bargaining that focus on employer interests and social pacts fall short in accounting for the divergent fate of collective bargaining in Iberia. Sections three and four describe the common effort of Iberian governments to shift to a more decentralized system of collective bargaining and highlights how the many rigidities in the Spanish political economy made possible the emergence of political exchange between employers and unions, in which the maintenance of centralized bargaining structures and limited firm-level flexibility in the reallocation of labor was traded for greater external and macroeconomic wage flexibility. In contrast, the relative absence of labor market rigidities in Portugal meant that the fodder for political exchange did not exist, and thus employers were committed to bargaining decentralization. The last section concludes with some implications that this analysis has for our understanding of employer preferences and of the "new" politics of social pacts.

Collective Bargaining in Iberia: Problems and Proposed Solutions

Recent work on labor market reform in Iberia has tended to focus more on the *form* than the *content* of labor market reforms. An excellent indicator of this is the explosion of work during the past ten years on the resurgence of national "social bargaining" in the two countries (Rhodes 2003; Royo 2002; Hamann and Kelly 2007). Despite the scholarly interest in the emergence of more cooperative forms of relations between the state, business, and labor, very little has been written on the *substance* of the reforms undertaken—and in particular, why, despite the common emergence of social bargaining writ large, we have seen such profound differences in the substantive outcomes emerging from social bargaining in the two countries, especially in the realm of collective bargaining.³

Indeed, the substance of changes in collective bargaining is striking given the two countries' similar starting points. By the mid-1990s, governments in both countries had come to the conclusion that existing structures of collective bargaining were outdated. Rigid and highly fragmented occupational classifications codified in law were inhibiting reorganization of work processes that would increase productivity. The stated position of

both governments was that the social partners needed to be encouraged to widen the scope of collective bargaining. Not only should wages be negotiated at the firm level, but employers and unions should also be willing to bargain over questions related to work organization. Not surprisingly, given such a diagnosis, governments in both countries attempted to inject greater “flexibility” into their outdated collective-bargaining structures by introducing major reforms to labor law.

Table 7.1. Key features of collective bargaining in Spain and Portugal, 1980s and 1990s

	Definition
Sectoral Bargains with Extension Mechanisms	Sectoral bargaining predominates. State extends collective agreements to nonunion members. Unions and employers may choose at what level to bargain, but lower-level agreements may only improve on the contents of agreements made at a higher level.
Fragmentation of Bargaining Units	Involves many bargaining units, with the distribution of responsibilities between them left undetermined.
Strong Regulatory Role of State	Labor law limits collective bargaining over most aspects of work organization, such as occupational classifications and internal mobility.

The remainder of this section lays out the nature of changes proposed to each collective-bargaining system in recent years and what was at stake politically with these reforms. I then highlight how despite similar efforts by governments in both countries—both of which aimed at creating a more decentralized and flexible system of labor relations—employers in the two countries responded very differently to the new set of incentives facing them. Whereas Spanish employers have maintained tacit support for an intermediately centralized and relatively unarticulated system of collective bargaining and a pushed for only a limited expansion of the scope of collective bargaining, Portugal is seeing a trend toward “disorganized decentralization,” in which there has been a shift toward more decentralized bargaining without any concomitant increase in coordinating capacity on the part of peak-level actors.⁴

Collective Bargaining in Iberia: The Diagnosis

Throughout most of the twentieth century, the structures of collective bargaining in Iberia followed broadly similar trajectories. During their forty-year authoritarian interregnums, Spain and Portugal were textbook cases

of state-corporatist systems of labor relations.⁵ Not surprisingly, the onset of democracy brought dramatic changes to both systems, as the old corporatist vertical syndicates were dismantled and freedom of association—as well as freedom from obligatory association—were mandated. Broadly speaking, collective bargaining in the two countries has had three key features: the predominance of sectoral collective agreements; the fragmentation of bargaining structures; and limitations on the extent to which the regulation of internal labor markets was subject to collective negotiation.

In both Spain and Portugal features of the legal framework governing labor relations added up to a system of labor regulation which, in the eyes of both the government and employers, was overly centralized and insufficiently capable of delivering microeconomic flexibility. Sectoral bargaining predominated, and although contract coverage was high, bargaining was highly fragmented and the division of labor between different levels of bargaining units was insufficiently specified. In addition, the continued existence of extensive state regulation of the labor market was allegedly blocking much-needed reforms in areas relating to microeconomic flexibility, such as the reregulation of occupational pay grades and working time. This, then, was the institutional framework that became increasingly contested and that governments in both countries targeted through major legislative initiatives after the mid-1990s. By removing the state from regulating large areas of labor relations, both governments hoped to encourage a wave of bargaining between employers and unions that would lead to a revitalization of the labor market.

Common Solutions, Divergent Outcomes

The broad purpose of the labor market reforms promulgated by Iberian governments was to remove the state's role in regulating large swaths of labor regulation—and, in so doing, to create a virtuous circle of economic dynamism in which the social partners (rather than the state) would now take the lead in negotiating new forms of microeconomic flexibility. That said, there are many ways in which the state can remove itself from the business of regulating labor; it may do so in a way that leaves existing inequalities between bargaining partners untouched, or it may try to level the playing field. Thus, before proceeding further, it is worth highlighting, in general terms what was at stake for unions and employers with the new labor-relations regime being pushed by the Iberian governments.

In essence, there were two issues in play; these are highlighted in Figure 7.1 (below). First, both the Spanish and Portuguese governments were attempting to decentralize bargaining away from the existing system of centralized collective bargaining, which privileged supra-firm (sectoral)

agreements, to a system dominated by what Wolfgang Streeck (1984) calls “microcorporatist” bargaining. Microcorporatist bargaining refers to bargaining between unions and employers at the level of the firm rather than at the industry or national level. The system is still considered “corporatist” insofar as workers have collective representation via an enterprise union or works council,⁶ but by limiting the extent to which firm-level agreements are conditioned by central agreements, workers are encouraged to identify with the needs of their individual firms rather than the broader collectivity of labor. Second, the reforms also entailed a broadening of the purview of collective bargaining. This was to be achieved by revoking those extant laws that codified or limited bargaining over non-wage components of the employment relationship, such as work organization, functional flexibility, and the like. This tradition of having the state legislate these areas of the employment relationship (rather than allow the relevant parties to bargain over them directly) had emerged during the authoritarian era and had its origins in the regime’s efforts to limit class conflict. The underlying logic was that if the state guaranteed to workers a series of labor rights, then there was no need for trade unions; if the state was delivering to employers social peace and other policies that would deliver growth, then there was no need for employers to negotiate with workers. Thus, because these features of Iberian labor relations had previously been dictated by legislative fiat, the new labor-law reforms meant that if these issues were to be addressed, they must now be done so through collective bargaining.

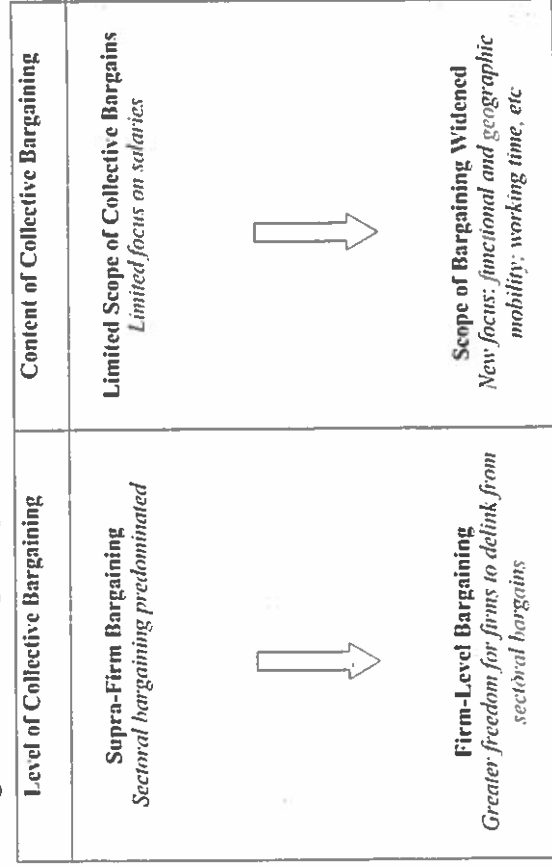


Figure 7.1. Proposed changes to collective bargaining in Spain and Portugal

These two reforms — which attempted both to reorganize the *level* at which collective bargaining takes place and also to expand the *content* of those bargains — were meant to go hand in hand. By removing the state from its role in regulating labor relations and by granting individual companies greater power to engage in bargaining, both the socialist government in Spain and the center-right government in Portugal hoped to promote microeconomic flexibility and, with it, enhanced economic competitiveness. It is noteworthy, however, that although the goal of the reforms was, in theory, to “strengthen” collective bargaining, the unions in both countries interpreted these measures as a dramatic effort to weaken labor rights in general and union confederations in particular. In the unions’ view, these reforms threatened their very organizational survival, because if employers chose to derogate from the existing sectoral agreements and to negotiate issues at the firm level, the higher-level union organizations would find themselves disconnected from individual workers at lower levels — and hence, irrelevant. This was of special concern because of the absence in both countries of a strong trade-union presence in the vast majority of small firms, which dominated both countries’ economic landscapes. Thus, unions argued, the governments’ reforms, although couched in neutral language that emphasized the need to encourage economic dynamism through more societal bargaining, in fact favored employers over unions.

Surprisingly, despite similar efforts by governments in both countries, employers in Spain and Portugal responded very differently to the new set of incentives facing them. In Spain, employers chose not to act on the newfound powers granted to them by legislation and instead defended the status quo. With respect to the *level* of bargaining, Spanish employers chose not to exercise their right to bargain at the firm level. The vast majority of Spanish workers continue to be covered by multicmployer (industry/sectoral) agreements; indeed, the number of workers covered by company agreements has actually declined since the early 1990s. Nor has the *content* of bargaining changed dramatically. Rather, with respect to the broad swath of issues related to working conditions, Spain has witnessed remarkable stability. A report by Spain’s Ministry of Labor, for example, reports that the treatment of working time and the internal organization of the firm in matters relating to the use of technology and human resources recorded almost no changes in the 1996–2006 period (Comisión Consultiva Nacional de Convenios Colectivos 2008). In contrast, Portuguese employers immediately took advantage of the new legislation and launched a frontal attack on the existing system of collective bargaining.

The Political Economy of Collective Bargaining Reform: Multiple Rigidities and Political Exchange

What accounts for the divergent strategies adopted by employers in the two countries? At first glance, the answer to this question is not straightforward. Union opposition to the changes proposed by governments, which were viewed as incursions on workers' existing collective rights, is less surprising than the divergent positions taken by employers. Indeed, the most common understandings of employers found in the contemporary comparative political economy literature failed to predict the divergent strategies Iberian employers adopted. First, Spanish and Portuguese employers did not appear to have different "prestrategic" preferences when it came to collective-bargaining reform. On the contrary—prior to the reforms, they had long been calling for the further decentralization of bargaining and a concomitant widening of the subject matter over which they could bargain. Furthermore, accounts focusing on the relative strength of employers also fail to explain the difference. This is because, in conventional terms, Spanish employers were "stronger" than their Portuguese counterparts. Here, I follow Martin and Swank (2004) in conceptualizing employer strength as the centralization and concentration of representational power in national associations. Whereas Spanish employers are represented by a unitary employers' confederation that represents 80 to 90 percent of Spanish firms, Portuguese employers are split between two major confederations whose representative capacity is unclear (Traxler, Blaschke, and Kittel 2001) and who often disagree on fundamental matters of policy making (Rhodes 2003). Clearly, then, the different choices made by Spanish and Portuguese employers cannot be blamed on the weakness of Spanish employers.

Nor can employer-centered accounts focusing on the varying production needs of different types of firms account for the different strategies of Iberian employers. Scholars working in the "varieties of capitalism" tradition, for example, link employer support for labor market "rigidities"—including centralized wage bargaining—to their need for skilled labor forces. However, insofar as the vast majority of Iberian firms are small and medium enterprises competing on cost rather than quality (OECD 2004), we should have expected employers in both countries to support a liberal, decentralized model of collective bargaining.⁷

If the employer-centered literature is of little help in accounting for the divergent actions of employers, so too is recent scholarship on the politics of social pacts and "social bargaining." This important literature has focused on the way in which macroeconomic pressures emanating from the European Monetary Union (EMU) contribute to bargaining recentral-

ization via "social pacts" that address a broader range of issues, including deficit reduction and welfare state reform, than do traditional wage agreements (Pochet et al. 1997; Hassel 2003). The logic of this argument is that because the European Central Bank's nonaccommodating monetary policy is incompatible with low unemployment in an intermediately centralized wage-setting system, the shift toward hard monetary policy attendant with European monetary unification contributes to interassociational consensus around centralized forms of wage determination. In a similar vein, the monographic literature on Iberian labor relations attributes the return of social bargaining in both countries to employers' recognition that with increasing economic integration, social consensus and trust between employers and unions was even more important (Royo 2002, 2007). According to this argument, because future economic growth in a context of greater internationalization depends on the ability of the national system of labor relations to deliver collective goods, both Portugal and Spain have seen a shift toward more coordinated forms of interaction between unions and employers, exemplified by social pacts.

And yet, neither set of explanations relating to social pacts can adequately account for the Iberian divergence. First, the combination of sectoral, relatively fragmented bargaining structures in the shadow of EMU clearly does not explain the different stances adopted by Spanish and Portuguese employers with respect to labor market reform. Both countries had highly fragmented and "unarticulated" bargaining structures, but this fact did not keep Portuguese employers from abandoning "consensus politics" and "social pacts" in the area of collective bargaining. Clearly, fragmentation alone fails to provide sufficient inducements to employers to maintain centralized "articulated" bargaining. Similarly, accounts based on the imperatives of globalization and countries' position in the international division of labor also fail to explain the Iberian divergence, as the Portuguese economy is, if anything, more open than the Spanish economy, and yet this has not pushed employer-union relations with respect to collective bargaining in a more consensual direction. Moreover, such an approach cannot explain Spanish employers' lack of concerted action in areas related to the *content* of bargaining.

By contrast, the argument made here is that broad economic factors such as firms' product market strategies and macroeconomic imperatives have played a less crucial role in shaping employer preferences in Iberia than the way in which the balance of rigidities and flexibilities within a given economy shaped the possibilities for bilateral forms of "political exchange" between employers and unions. As just discussed, employers in Portugal and Spain were initially relatively similar in their demands vis-à-vis the need to reform collective-bargaining structures. Rather, it was the

broader labor market setting that they faced that differed, and it was this setting that accounted for the different strategies they adopted. Although firms may desire increased flexibility in matters relating to the supply side of the economy, this is only one dimension of flexibility; there are many others.

The more a labor market is characterized by rigidities in multiple arenas, therefore, the more likely it is that one will see the emergence of reform coalitions between employers and unions centered around a strategy of “vice into virtue.” This phrase, coined by Jonah Levy (1999) with respect to the politics of welfare reform in Bismarckian systems of social protection, refers to a political strategy that targets policy inequities that are a source of economic inefficiency. By attenuating inequities (“vices”), reformers may be able to extract resources with which to pursue a variety of “virtuous” objectives. This chapter argues that such a dynamic is not limited to the politics of the welfare state but also may apply to industrial relations. In Spain, as we shall see, the many pathologies of the Spanish labor market made employers willing to limit collective-bargaining reforms in exchange for greater flexibility in terms of salary and external flexibility—that is, wage moderation and dismissal costs. In contrast, Portuguese employers, facing economic pressures for greater firm-level flexibility in the allocation of labor but operating in an otherwise liberalized labor market, had very little to gain from maintaining a centralized system of bargaining.

Trajectories of Collective Bargaining Reform in Iberia: Continuity Versus Change

As the following pages will highlight, despite similar efforts by Iberian governments—both of which aimed at enabling employers to promote a more decentralized and flexible system of labor relations—employers in the two countries responded very differently to the new set of incentives facing them. Each country study in this section first lays out the socioeconomic situation that precipitated Iberian governments to legislate major changes to their collective-bargaining systems. I then highlight the extent of continuity in Spanish labor relations in contrast to the degree of change in Portugal and argue that the different outcomes are due largely to the different combinations of rigidities that existed in each country’s labor market at the time of the legislative reforms. These different sets of rigidities, broadly conceived, conditioned the possibilities for political exchange between employers and unions and the willingness of employers to compromise on the issue of collective-bargaining reform.

Multiple Rigidities and Exchange: The Maintenance of the Status Quo in Spanish Collective Bargaining

The first effort to seriously address these alleged shortcomings in Spanish collective bargaining in the postauthoritarian period came in 1994. By the early 1990s—after an economic upturn in the late 1980s in which overall employment levels increased although unemployment levels remained high—Spain was facing a recession of truly critical proportions. With unemployment at 24 percent, low overall employment rates, public debt, and high deficits, the socialist government decided that it was imperative to undertake a major structural reform of the labor market.

According to the government, the purpose of their 1994 labor reform was twofold: first, to reduce several obvious institutional rigidities in collective bargaining; second, to strengthen the representational capacity of the social partners in order to promote the adaptability of the labor market. In concrete terms, this meant eliminating the old labor ordinances that had regulated many aspects of labor relations and requiring that what had been codified by law now be explicitly negotiated by the social partners. The government targeted this as a major issue for economic competitiveness because the existing narrow job demarcations inherent in the labor ordinances discouraged functional mobility. The government also promoted the decentralization of bargaining to the firm level by permitting opt-out clauses that allowed firms to modify wage increases that had been agreed to in sectoral wage settlements. In effect, this eliminated the principle of “general efficacy” (that is, the automatic extension of collective contracts to all workers in a given sector) from Spain’s Workers’ Statute. Finally, the legislation also gave employers greater control over functional and geographic mobility of their workers.

Initially, the Spanish employers’ association, the CEOE, publicly pronounced itself satisfied with the legislation; its only complaint was that the reforms did not go far enough (*El País*, 18 November 1993). In particular, the CEOE felt that the government’s proposal was insufficient insofar as it failed to eliminate the automatic renewal (“*ultra-actividad*”) of the non-wage components of collective agreements. In contrast, the unions were outraged at the government’s proposal. Despite the assurances of party leaders that the reform would make Spain’s labor relations framework “more similar to that of Germany than that of Ghana” (*El País*, 5 February 1994), the unions were not reassured. In their view, the proposed reforms entailed a simultaneous cut in workers’ basic rights and a thinly veiled attempt to push back the frontiers of labor’s collective resources. Although Spanish unions had long agreed on the need to reform the existing system of collective bargaining, in their view this meant better “articulating” bar-

gaining by more clearly defining the division of labor across the hierarchy of bargaining units and strengthening the national confederations vis-à-vis regional and provincial organizations.

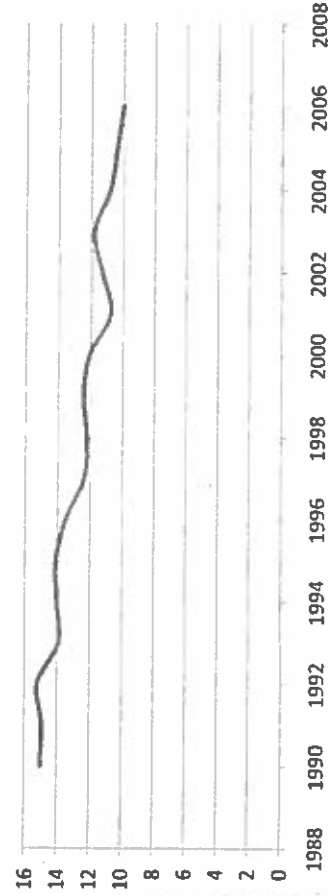
The 1994 *reforma laboral*, however, was another matter entirely, one whose effects threatened to empower employers over unions. Especially alarming was the effort to shift to a microcorporatist model of collective bargaining. By mandating that firms be allowed to opt out of suprafirm agreements and by legalizing the use of variable, productivity-linked wages at the company level, the government was indeed rearticulating collective bargaining but in a way that unions felt weakened the labor movement as a whole. By not including any legal provisions explicitly requiring employers to renegotiate the now-derogated labor ordinances, the reforms threatened to unleash a deregulatory spiral across the Spanish economy.

Given this scenario, one might have expected the employers to press their advantage and to lead the deregulatory charge. Instead, however, they chose not to take advantage of either the opportunity to expand firm-level bargaining or to force a renegotiation of important issues of internal flexibility. In the intervening years, little has changed in terms of the level or the content of collective bargaining. With respect to the *level* of bargaining, Spanish employers chose not to exercise their right to bargain at the firm level. As Figure 7.2 (below) highlights, the number of firm-level contracts signed has remained constant, and the vast majority of Spanish workers continue to be covered by multiemployer (sectoral) agreements. Indeed, the percentage of Spanish workers covered by firm-level contracts has actually decreased since the first attempted reform of the mid-1990s. Furthermore, although the 1994 legislation had in theory made it easier for firms facing economic hardship to opt out of collective agreements (*descatalogarse*), the sectoral representatives of the employers' association agreed in collective contracts to very strict standards for specifying the conditions of disconnecting from the broader collective agreement, thereby limiting any significant expansion of firm-level bargaining.⁸ Nor has the employers' association pushed hard for firm-level productivity bargaining via efforts to "articulate" collective bargaining (Confederación Española de Organizaciones Empresariales 2008).

If the level and structure of collective bargaining in Spain have remained relatively constant, so too has the *content* of that bargaining. Spanish employers, despite their complaints, have shown themselves willing to defend the status quo. Although the number of new clauses being included in collective contracts has increased, a fact that might suggest the emergence of "autonomous" collective bargaining between the social partners, when one examines the actual contents of such clauses, it is clear

that very few flexibilizing changes have been introduced. The Comisión Consultiva Nacional de Convenios Colectivos, in its detailed analysis of Spain's National Register of Collective Agreements, show that the distribution of working time has remained constant, while productivity-related wage incentives have increased only slightly (CCNCC 2008). In summary, despite the best efforts of the socialist government, very little related to fundamental issues of the wage structure or functional flexibility changed in the aftermath of the 1994 reforms.

Figure 7.2. Percent of Spanish workers covered by firm-level contracts, 1990–2006



Why has there been so little substantive interest on the part of Spanish employers in leading a deregulatory charge with respect to collective bargaining and labor relations? As was mentioned earlier, the reticence of Spanish employers' in pushing for deregulatory changes is not the result of inherent opposition to the substance of the legislation; the 1994 legislation actually attempted to implement reforms for which the employers' association had long been calling.⁹ Rather, in order to understand their response, one needs to look beyond the realm of collective bargaining and consider other dimensions of flexibility valued by employers. In Spain, employers faced a labor market beset by a host of rigidities. Although they opposed the rigidities inherent in the collective-bargaining system, in the mid-1990s this was not their only, nor their largest, concern. Especially problematic from the perspective of Spanish employers were two other sets of rigidities: the absence of wage moderation among permanent workers and Spain's very high dismissal costs. Employers were, therefore, quite willing to trade greater "flexibility" in these areas and, in exchange, limit a deregulation of collective bargaining.

The political exchange between unions and employers emerged in two periods. After the 1994 labor reforms were announced, the unions initially

tried to threaten the government by organizing a general strike. When this failed to convince the Socialists to retire the offending legislation, the unions changed their tactics, now turning their attention to employers. Here, the union confederations let it be known that if the contents of the legislative reform were actually applied, not only would they bargain aggressively in the next round, but they would also do little to contain any localized uncoordinated conflicts that might arise (*El País*, 17 June 1994). If, however, employers were willing to maintain the existing system, the unions would offer significant wage moderation—on the order of two to three percentage points lower than their desired starting point.¹⁰

Thus, although the CEOE supported the government proposals, the possibility that they could obtain wage restraint absent a spiral of escalating conflicts led them to reconsider their position. In the late 1980s and early 1990s Spanish employers had not been terribly successful in convincing unions to moderate their wage demands. Even with unemployment at 18 to 24 percent, real wage increases nevertheless continued on an upward trend. Now, however, the unions were willing to moderate wages significantly while at the same time limiting social unrest; therefore, rather than moving ahead with bargaining decentralization or renegotiating the labor ordinances, the CEOE came to a tacit agreement with the unions. Employers would not take advantage of the new legal rights granted to them—in particular those allowing derogation from sectoral agreements and increased flexibility of working conditions.¹¹ In exchange, the unions agreed to moderate wages and to keep a lid on social conflict (Bentolila and Jimeno 2003).

If the promise of wage restraint and the threat of localized wage conflict served initially to keep employers in check, however, this in itself was insufficient to sustain a long-term equilibrium. Although the unions did indeed meet their commitment by limiting both social conflict and their wage demands, there nevertheless existed significant support among employers for the employers' organization—the CEOE—to abandon its accommodating strategy with the unions (Molina Romo 2005). It was here that we saw the emergence of a second stage of political exchange in Spain. In order to keep the employers' association from reneging on its informal bargain with the unions, the unions chose to sweeten the existing bargain of political exchange with a series of inducements to employers. The main arena in which this exchange occurred was with respect to the regulation of firing costs. Spain had partially liberalized temporary employment in 1984 while maintaining very high dismissal costs for workers on permanent contracts. Employers responded by taking advantage of the new laws, and by 1990 the proportion of the Spanish labor force on fixed-term contracts was over 30 percent. Workers hired under temporary contracts could be fired at a low cost relative to workers on indefinite contracts, and

hence they bore the brunt of economic insecurity within the Spanish labor market (Güell and Petrongolo 2005).

Although the unions had long been calling for reductions in this "precarious" form of employment, they had until this point been unwilling to acknowledge that there might be any relationship between high firing costs for workers on permanent contracts and the growing army of temporary workers. Throughout the 1980s and early 1990s, when employers demanded a liberalization of firing costs in order to promote employment creation, the unions refused out of hand to consider any of the proposals. Instead, they countered with demands that employers simply reduce their reliance on temporary contracts, absent any change in the legal framework. But, by the late 1990s, the unions were faced with the distinct possibility that employers might pull back from the existing gentlemen's agreement with respect to the regulation of labor relations. Thus they decided to use the issue of dismissal costs as a way to lure employers into maintaining their accommodating position vis-à-vis collective bargaining.

The 1997 bilateral agreement signed between unions and employers, known as the AIEE (*Acuerdo Interconfederal para la Estabilidad del Empleo*—Interconfederal Agreement on Employment Stability), represented the first time since 1980 that dismissal costs for permanent workers were lowered—and, moreover, they were lowered by some 25 percent. In exchange, the unions received two sets of policies. In the first agreement, the AICV (*Acuerdo Interconfederal sobre la Cobertura de los Vacíos*—Interconfederal Agreement on the Coverage of Gaps), the existing gaps in coverage caused by the derogation of the old labor ordinances were closed. In a second, the AINC (*Acuerdo Interconfederal para la Negociación Colectiva*—Interconfederal Agreement on Collective Agreements), the social partners agreed to rationalize collective-bargaining structures in the manner favored by the unions (Molina Romo 2005). This breakthrough reform has since been followed by a series of bilateral agreements between the CEOE and unions in which they agreed to extend these agreements about bargaining articulation, external flexibility, and measures to promote employment creation. The backbone of these agreements, however, is that in sectors with a weak union presence, the existing structure and content of collective bargaining remain untouched. It remains to this day the third rail of Spanish labor politics.

The Portuguese Counterfactual: Employers' Frontal Attack on Collective Bargaining

As Ira Katznelson (1986) has eloquently noted, without a comparative vantage point, the "silences" as well as the "noises" in politics and policy making may appear natural, and thus unworthy of explanation. In Spain,

as we just saw, despite the friendly environment provided by the state, employers were willing to trade reforms in collective bargaining for wage moderation and rollbacks on firing regulation. In Portugal, in contrast, we will see that with employers, who already enjoyed significant flexibility when it came to wage-setting and firing costs, this type of political exchange failed to emerge. Employers wasted little time in taking advantage of the opportunities provided by government reforms to declare war on the existing system of collective bargaining.

By the mid-1990s, proposals for amending the Portuguese system of collective bargaining had come to the forefront of the political agenda.¹² Much of the pressure came from employers, whose public position was that they wanted to improve Portugal's ability to compete in the global economy. In 2001, the new secretary of state for labor and vocational training, António Dornelas, noted that although the number of workers covered by collective bargaining remained high, the system had not adapted to the changing economic environment facing Portuguese firms. Issues such as productivity-related pay, variation in the organization of the workweek, and access to training also needed to be explicitly negotiated if Portugal was to find the proper balance between flexibility and security required by the new global economy (Dornelas 1999). The Portuguese Confederation of Industry (*Confederação da Indústria Portuguesa*, CIP) agreed with this reading of the problem, adding only that collective bargaining based on sector-level negotiations, as was currently the case, was an outdated model. Portugal needed more firm-level bargaining (International Labour Organisation 2001).

The 2003 reform to Portugal's labor code, passed by a center-right government, relied on somewhat different mechanisms than the Spanish reform, but it shared with Spain's labor market reforms the end goal of decentralizing collective bargaining and injecting greater flexibility into labor relations. The reform operated in two key areas. First, the new labor code abolished a feature of labor law known in Portuguese as *sobrevigência*, which guaranteed the validity of collective agreements until their substitution by a new agreement signed by the same partners. The new reformed labor code now specified that collective agreements could expire under one of two conditions: if they were denounced by one of the signing parties (unions or employers) or if they were not formally renewed via a new collective agreement. Under the new regime, once the validity of a given collective agreement was denounced or expired, employees who had been covered by that contract maintained their respective rights and benefits as part of their individual work contracts. Workers hired after the expiration of the collective agreement, however, now came under the protection

of the labor code, which guaranteed lower standards than the collective agreements (EIRO 2004).

At the same time, it granted firm-level workers' commissions the right to negotiate collective contracts, while severely circumscribing the legal rights granted to these workers' commissions. The law placed considerable limitations on the participation rights of works' councils by abolishing legal protections for their members (which had existed under the previous legal regime).¹³ This meant that employers wishing to negotiate firm-level flexibility could now bypass the national-level unions and deal directly with organizations over whom they had greater control. In sum, the new legislation resulted in the most sweeping changes to Portuguese collective bargaining since the transition to democracy.

In contrast to Spain, however, where employers chose not to push their advantage, Portuguese employers wasted no time in declaring war on the extant system of collective bargaining. In the 2004 bargaining round, a large number of employers invalidated their existing collective agreements by taking advantage of their newfound right to formally denounce existing contracts. As a result, the number of agreements in effect fell to less than half of the average number in previous years, while the percentage of workers covered by renewed agreements fell to approximately 40 percent. This had the effect of enabling individual employers to push for sweeping changes in work organization and working time. In 2005 and 2006, collective bargaining recovered somewhat, but both the number of new agreements and the percentage of workers covered were still well below previous levels (UGT 2007). In the absence of sectoral agreements, unions report a clear increase in the proportion of company-level agreements within the collective-bargaining system (UGT 2006). Furthermore, despite the slow reemergence of collective negotiations in some sectors, bargaining remains at a standstill in several important industries, including ceramics, textiles, automobiles, chemicals, metallurgy, and private health care (Campos and Naumann 2006).

Although the outcome of the current war between employers and unions is still uncertain, there is broad agreement among Portuguese scholars that in the long run, the system is headed in the direction of further decentralization and that the hierarchical order between collective agreements and plant-level negotiations has been reversed. Moreover, although one is seeing the emergence of plant-level pacts aimed at expanding firms' flexibility,¹⁴ it would be somewhat misleading to claim that this represents a genuine expansion of the scope of bargaining. To the extent that workers' representative organs at the firm level have been weakened in Portugal, it is unclear how much—if any—meaningful bargaining is taking place.

Portuguese employers were much more focused on the benefits to be derived from bargaining decentralization—namely, the ability to restructure the organization of production and to restructure working time—than were their Spanish counterparts. This was because they faced fewer other rigidities in their labor market. Consider the two key areas in which Spanish unions were able to offer inducements to employers: macroeconomic wage restraint and the renegotiation of external flexibility. Neither of these avenues of negotiation was open to Portuguese unions. With respect to broad-based wage restraint, this was not an option because collective bargaining in Portugal has never had a large impact on the wage policies adopted by employers in the first place. For example, as the OECD has noted, although Portuguese unemployment increased between 1992 and 1996, the shift to nonaccommodating monetary policy that came with EMU did not have the same dramatic unemployment effects as in some other countries.¹⁵ Given this situation, macroeconomic wage inflation was not a major concern for Portuguese employers. This removed one potential resource available to unions.

Second, Portuguese unions also had much less to offer employers in terms of other “vices” that might be remedied in exchange for a “virtuous” outcome in the collective-bargaining arena. In Spain, employers were sufficiently unhappy with the limitations on external flexibility that they were willing to trade concessions in this area for limitations on bargaining decentralization. In Portugal, however, this was not a viable basis for political exchange. As part of their reform of the labor code, the Portuguese government had also included measures liberalizing the cost of individual dismissals, which meant that this was also not available as a “resource” for the unions to use in bargaining with employers. Moreover, although legislation on individual dismissals had been quite rigid, Portuguese legislation on collective dismissals (layoffs) was not particularly stringent.¹⁶ Indeed, to the extent that wage flexibility was insufficient to meet the needs of Portuguese employers in the early 1990s, employers were already able to resort to the more favorable legislation on collective layoffs.¹⁷

The bottom line, then, was that Portuguese employers, facing economic pressures for greater firm-level flexibility in the allocation of labor but an otherwise relatively liberalized labor market, had little to gain from maintaining a centralized system of bargaining. Employers were thus delighted to oblige the government and attack the existing system. Labor relations are still somewhat in flux, as unions initially challenged the constitutionality of the legislation; however, many of the legal issues raised were resolved with the introduction of a new labor code in 2008, and 2009 saw a new wave of contract expirations (Neumann 2009). Communist union

leaders predict that within five to ten years Portugal will have a much more decentralized—and disorganized—system of labor relations.

Conclusion

In accounting for the divergent fates of industrial relations projects introduced by Iberian governments in the past fifteen years, this chapter has pointed to the fact that collective-bargaining institutions are not the only source of rigidity in a political economy. Employers, facing a range of other labor market rigidities, may be willing to exchange continued rigidities in one area for more flexibility in another. This relatively simple argument suggests that we take seriously Locke and Thelen's (1995) admonishment to contextualize supposedly universal economic pressures for decentralization. Depending on the mixes of flexibility and rigidities in a given national economy, a common pressure for greater flexibility in one area may play itself out in very different ways.

Furthermore, the evidence presented in this chapter also casts doubt on some recent work in comparative political economy on the changing dynamics of wage restraint. Traditionally, scholars have understood wage restraint as occurring via the logic of “political exchange.” The logic of the exchange was simple: unions delivered wage restraint contingent on the state expanding the social wage. According to Isabela Mares (2006), it is the exhaustion of this bargain that has resulted in higher European unemployment: Due to the “growth to the limits” of the European welfare state, governments can no longer deliver payoffs (in the form of expanded social policy benefits) to unions. As a result, unions have had little interest in moderating wages.

Interestingly, however, evidence from the Spanish case, presented in this chapter, suggests that significant wage restraint may still be possible, even in the absence of government willingness to engage in exchange with unions. In Spain, wage moderation (and lower unemployment) emerged in the late 1990s only when the state removed itself from direct intervention in the labor market and refused to participate in the “market” for political exchange. This suggests that governments may be able to secure union cooperation in wage restraint not through political exchange, but rather by threatening the very organizational underpinnings of union strength. For unions, the threat of political and economic marginalization may be a functional substitute for political exchange with the state.

This dynamic is not limited to Spain. The experience of the Netherlands since the early 1990s also suggests that wage restraint may be possible even when the state refuses to offer nonmarket financial compensation in

exchange for union agreement to limit wage militancy. In the Dutch case, the government indicated its refusal to engage in the Pizzornian market for political exchange when it began privatizing a series of social security benefits. In response, the unions turned to collective bargaining—that is, to negotiations with employers—in order to fill in the social-protection gaps that the government had created. Wage restraint in the Netherlands during the 1990s emerged out of a bilateral bargain between employers and unions in which the unions agreed to take the issue of wage increases off the bargaining table in exchange for employers agreeing to provide workers directly with social insurance measures (Cox 2001). The Dutch experience, then, like the Spanish one, implies that although the days of “classic” political exchange predicated on bargains between the state and unions may be over, European political economies are not doomed to an endless future of high unemployment. Rather, the possibilities for wage restraint may depend on the willingness of employers and unions to identify mutually beneficial opportunities for political exchange.

Notes

1. Peter Swenson's (1991, 2002) and John Bowman's (2002) works are notable exceptions.
2. Internal and functional flexibility involve permitting firms to adapt differentiated working-time arrangements and requiring workers to perform different tasks. External flexibility is the ability of firms to shed labor at will (i.e., by making it easy to fire workers). Salary flexibility can operate both at the macro- and the microeconomic level, involving either economy-wide wage restraint or the use of productivity-linked pay incentives at the firm level.
3. Sofia Pérez (2000) is one important exception in this general trend insofar as she examines the emergence of efforts to promote “articulated” bargaining in Spain.
4. Franz Traxler (1996) contrasts this outcome with that of “coordinated decentralization,” in which peak associations are able to maintain coordination in the absence of centralized bargaining.
5. The Organización Sindical Española (OSE, Spanish Trade Union Organization), set up in 1940 and structured around the corporatist mantra of “unity, totality, and hierarchy,” was similar to the Portuguese system of *Sindicatos Nacionais* in its intent to overcome class conflict through the national union of producers.
6. The non-microcorporatist possibility would be that atomized workers bargain their situation individually with employers at the firm level.
7. This point, as Culppepper very insightfully points out, raises the crucial question of interest representation: whose interests are being represented by the employers' association? For our purposes, it is sufficient to note that Varieties of Capitalism fails to problematize interest representation. See Culppepper (2007).
8. For example, a firm must show three consecutive years of losses and must apply for the right to delink within a very short window of time after the signing of the collective contract (typically two weeks to one month) (See OECD 2001: 69).

9. It is important to note that Spanish employers did not wish the government to legislate these new flexible forms of work organization; rather, they favored the government's strategy of devolving these decisions to collective bargaining. Employer generally pleased with the legislation, largely because (although the alleged purpose of the new law was to encourage bargaining over these issues among the social partners) the new legislation did not require a renegotiation of the now-degraded labor law. This enabled employers to promote a generalized deregulation of the labor law while at the same time maintaining the “autonomy” of collective bargaining.
10. Interviews: Julian Ariza and Marcos Peña, 2007, and Antonio Ferrer, 2008.
11. As Pérez (2000, 2002) has noted, employers also agreed to cooperate in clarifying division of labor between different levels within the collective-bargaining structure. For an excellent analysis of failed efforts of governments during the 1990s to encourage the expansion of the scope of collective bargaining, see Lima and Naumann (2000).
12. Their right to elect representatives to the governing boards of firms was limited to public companies, and the right of workers commissions to be involved in enterprise restructuring was removed. Finally, the amount of compensated time granted to council members was severely curtailed. See Lima and Naumann (2006).
13. These are aimed at controlling labor costs, increasing productivity gains by improving the flexibility of the production process and redistributing work among the employees. This in turn emerged out of the dynamics of Portugal's transition, in which the system communist left was very strong. As a result of its dominance of the labor movement, successive governments worked to weaken the role of unions in pay-setting institutions (see Watson 2006).
14. Portuguese employers also had recourse to a very liberal regime governing temporary employment. In contrast to Spain, Portuguese firms were effectively free to shed workers without having to worry about court challenges on the grounds of unfair dismissal. Addison and Teixeira 1999.
15. For example, a high-ranking government official in the labor ministry reported that recent OECD indicators for employment protection legislation are currently being re-evaluated and that, as a result, Portugal's score will be lowered, largely because its collective dismissals legislation is on par with the European average.

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Section III

DIVERGING INSTITUTIONAL LEGACIES, IDEAS, AND SOCIAL REFORM

