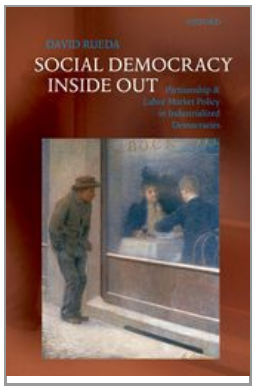


Social Democracy Inside Out: Partisanship and Labor Market Policy in Advanced Industrialized Democracies
David Rueda

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## Partisan Government and Employment Protection

David Rueda (Contributor Webpage)

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### [–] Abstract and Keywords

This chapter explores the relationship between government partisanship and employment protection in Spain, the Netherlands, and the UK since 1970. The analysis of the Spanish case shows that the social democratic party [*Partido Socialista Obrero Español* (PSOE)] was decidedly pro-insider. Facing increasing economic challenges (unemployment, inflation, etc.), the PSOE responded by staunchly maintaining the high protection of insiders and by facilitating the entry into the labour market of outsiders. Regarding the Netherlands, the analysis shows very similar developments to those described in the Spanish analysis. The analysis of the UK displays the consequences of unfettered conservative government. In the 1980s and 1990s, prime ministers Thatcher and Major engineered a dramatic attack on insiders in the UK. Labour's return to power since has meant a very timid attempt to promote insider protection.

*Keywords:* government partisanship, Spain, PSOE, employment protection, Spain, Netherlands, UK, social democracy, conservative government, Thatcher, Major

Perhaps the best way to start this second part of the book is by providing a very brief reminder of some of the reasons why case studies are important to my argument. The case comparisons provide a detailed analysis of the relationship between government partisanship and policy. Although the quantitative results that I presented in previous chapters are powerful evidence supporting the insider–;outsider partisanship model, the case studies clarify the influence of electoral considerations (affecting insiders, outsiders, and upscale groups) on the policy choices of social democratic and conservative parties in three country cases. In a clearer way than the previous general chapters, the country analyses allow us to examine political (as well as policy) developments as they evolved after 1970 and to trace the causal processes affecting the outcomes of interest. They also facilitate the assessment of political agency (the interplay of actors, including parties and social partners, their motivations, and strategies) and institutional constraints (the mediating effects of corporatist arrangements or labor market vulnerability) in a way that is difficult to capture in the aggregate analyses presented in previous chapters.

The analysis of the Spanish case in this chapter will show that the social democratic party [*Partido Socialista Obrero Español* (PSOE)] was decidedly pro-insider in the period under analysis. Facing increasing economic challenges (unemployment, inflation, etc.), the PSOE responded by staunchly maintaining the high protection of insiders and by facilitating the entry into the labor market of outsiders. The following pages will also show that unions are an even stronger defender of insiders in Spain. Their goals were not only the defense of insider employment protection, but also the increase of insider wages (which put them at loggerheads with the PSOE governments, more interested in promoting wage moderation to combat **(p.105)** inflation). Also in agreement with this book's arguments, this chapter will show that the conservative party [*Partido Popular* (PP)] attacked insider protection when it got to power.

In the Netherlands, the analysis will show very similar developments to those described in the Spanish analysis. The Labor Party [*Partij van de Arbeid* (PvdA)] has defended the interests of insiders by making high employment levels for standard employment its most important objective. As in the case of Spain, unions attempted to defend insider employment protection and also to increase insider wages but the promotion of both these goals became difficult by the early 1980s. Conservative parties in the Netherlands are less powerful than in Spain or the UK. The Christian Democratic Party (CDA) and the Liberal Party (VVD)[1] have not been able to attack insider protection. In a way that reflects the opportunities and limitations present in a corporatist environment, they have focused instead on promoting insider wage moderation (in a much more successful way than in Spain). The creation of a large pool of outsiders has also been the result of labor market policy in the Netherlands. In Spain, this was accomplished mostly through the use of fixed-term employment, in the Netherlands through part-time employment.

Finally, the analysis of the UK is all about the consequences of unfettered conservative government. In the 1980s and 1990s, Thatcher and Major engineered a dramatic attack

on insiders in the UK. This chapter will also show that Labour's return to power has meant a very timid attempt to promote insider protection. Unlike in Spain and the Netherlands, given the nature of the attack on insiders (among other things through the weakening of unions) and the traditional lack of interest in coordination by the social partners, wage moderation has received very little attention in the UK.

## 5.1. Some Background: Labor Market Institutions

This book's theoretical claims are fundamentally affected by the nature of the labor market and the influence of the social partners on parties. It is therefore necessary to provide some introductory remarks about labor market institutions in Spain, the Netherlands, and the UK before developing my analysis about the political determinants of employment protection.

### **(p.106)** 5.1.1. Spain

The two most important unions in Spain are the *Unión General de Trabajadores* (UGT), traditionally linked to the Socialist Party, and the *Comisiones Obreras* (CCOO), traditionally close to the Spanish Communist Party. The dominance of these two unions drives Führer (1996: 206) to declare that, because of their strength and legal privileges, UGT and CCOO 'determine, at every level, the worker side of labor relations in Spain'.[2] Since employers cannot choose to engage in collective bargaining with just one recognized union, as is the case in other countries, the Spanish system of worker representation has promoted multiunionism in most negotiating forums (see e.g. Milner and Metcalf 1994). In spite of the prominence of multiunionism, its effects are severely limited by single table bargaining.[3]

One of the most relevant characteristics of Spanish trade unionism is its low membership figures, but many observers have argued that the influence of trade unions in Spain is more related to their performance in works council elections than to membership (see Milner and Metcalf 1994; Führer 1996). The results of these elections constitute the only criteria by which legal representation rights and public subsidies are bestowed upon unions. The laws concerning 'most representative' union status determine that a union needs to obtain 'at least 10 percent of the works council delegates or staff representatives nationwide (or 15 percent in a particular region if the union is regionally based) to be able to negotiate on the relevant sector bodies' (Milner and Metcalf 1994: 20). Election results also govern the financing of unions (which is dependent on the state, given the paucity of membership dues).

Another characteristic of Spanish unions relevant to my analysis is the fact that membership is almost entirely composed of insiders and that only those with stable employment tend to participate in works council elections. Although reliable membership data is quite difficult to obtain,[4] there is a general consensus among observers that insiders constitute the overwhelming majority of both CCOO and UGT's members. An exact figure is hard to estimate[5] but it is generally agreed both that most members are insiders and that unions have made few efforts to **(p.107)** integrate outsiders into their ranks (Estivill and de la Hoz 1990; Dolado and Bentolila 1992; Rhodes 1997). As for

participation in works council elections, the unemployed are automatically excluded and those with temporary contracts tend neither to vote nor to run. It is also important to point out that, by law, only workers in companies with more than ten workers can participate in works council elections.[6] Abellán, Felgueroso and Lorences calculate that this limitation precludes the participation of up to a third of Spanish workers in elections to collective bargaining bodies (1997: 253).

In the period under analysis, Spanish collective bargaining has taken place at three levels: national, sectoral, and company. Although most agreements are signed at the company level, most workers are affected by collective bargaining at the sectoral provincial level (Jimeno 1996; Abellán, Felgueroso, and Lorences 1997). More specifically, while from 1981 to 1999 between 65 and 72 percent of agreements were signed at the company level and the rest at the sectoral level, between 80 and 90 percent of workers were covered by sectoral collective bargaining (both at the national and provincial level). This means that since the early 1980s, Spanish collective bargaining has been characterized by an intermediate level of centralization/coordination (Aragón Medina and Gutiérrez Benito 1996).

As for the actors involved in collective bargaining, they are the unions and the employer associations, sometimes with the participation of the government when national pacts are negotiated. The participation of unions in collective bargaining is exclusively dependent on the results of works council elections. This system results in the two major unions, CCOO and UGT, negotiating the agreements of as much as 95 percent of workers affected by collective bargaining (Abellán, Felgueroso, and Lorences 1997). Employers, on the other hand are mostly organized in two related associations: *Confederación Española de Organizaciones Empresariales* (CEOE) represents large companies and *Confederación Española de Pequeña y Mediana Empresa* (CEPYME) medium and small companies. CEPYME is a member of CEOE, but it has its own constitution. Although there is a lack of reliable data, CEOE and CEPYME are estimated to represent about 90 percent of Spanish companies and to participate in collective bargaining negotiations affecting as many as 80 percent of workers (Martínez Lucio 1991; Abellán, Felgueroso, and Lorences 1997).

**(p.108)** Regarding coverage, a very high proportion of workers are affected by collective bargaining agreements in Spain. According to most estimates, between 80 and 85 percent of the salaried labor force is covered by agreements (Abellán, Felgueroso, and Lorences 1997). Once an agreement is signed by unions and employers, it is automatically extended to all companies within its functional level irrespective of their participation in collective bargaining.

### 5.1.2. The NetherlandsM

The level of union density in the Netherlands is not very high by international standards. About 30 percent of Dutch workers are members of a trade union.[7] The three most important federations are the *Confederation of Dutch Trade Unions* (FNV), the *Christian-National Union Confederation* (CNV), and the *Union of White Collar and Senior Staff*

*Associations* (VHP). Although formal affiliations between the unions and the parties do not exist, the FNV is the union with connections to the Labor Party[8] and the CNV to the Christian Democratic Party. In 1996, there were 1.9 million union members in the Netherlands, 63 percent were affiliated to the FNV, 18 percent to the CNV, and 9 percent to the VHP. In spite of the spectacular increase in part-time employment experienced in the Netherlands since the 1970s (more on this below), unions mainly represent full-time workers with stable contracts. Figures for 1995/96 show that 81 percent of union members are employed, 81 percent work more than 35 hours a week, and 95 percent have a standard (not flexible or fixed-term) contract (Visser and Hemerijck 1997: 86). Women, young people, and immigrants are underrepresented in Dutch unions.

As for employers, between 60 and 70 percent of private sector employees work for companies that belong to an employers' association (Visser 1992). The Federation of Dutch Industry and the Dutch Federation of Christian Employers (VNO-NCW) organizes large and medium size employers, MKB-Nederland companies with less than fifty workers, and LTO Nederland agricultural companies.

The wage setting process in the Netherlands is highly centralized and coordinated. Every year there are attempts by unions and employers to **(p.109)** reach a national wage agreement at the National Labor Council. Since 1964, these efforts have been mostly unsuccessful at setting formal wage increases at the national level but they have often produced guidelines and recommendations for negotiations at the sectoral level (de Neubourg 1990: 88). Wage bargaining negotiations take place at the industry and company levels. Most collective agreements are signed at the industry level but the proportion of company agreements has been rising. In 1990, 82 percent of workers were covered by industry agreements and 18 percent by company agreements. In 1975, the proportion of those involved in company agreements had been only 14.6 percent (Teulings and Hartog 1998: 269). Agreements are extended to all workers in the company (union, nonsigning union, and nonunion members).[9]

Unions have no exclusive jurisdiction over collective bargaining and single table bargaining with employers is the rule (Visser 1998). Employers do not have an obligation to negotiate and there are no recognition rules for unions. Any union can enter collective bargaining negotiations and employers can sign an agreement with any union involved in bargaining. This means that unions always face a threat of exclusion from agreements, a threat that is carried out often enough to be credible (Teulings and Hartog 1998). Unions have an interest in avoiding exclusion from negotiations not only because of the loss of representation rights and legitimacy as worker representatives, but also because signing agreements enables the unions to receive a fee from employers—as compensation for the extension of agreements to all workers within the company (Visser and Hemerijck 1997).

There are two elements that promote moderation and cooperation on the employer side as well. First, collective agreements in the Netherlands contain a no-strike clause preventing unions that have signed them to engage in labor unrest. Only unions that sign the agreement are covered by the no-strike clause, so employers have strong incentives

to cooperate and try to involve as many unions as possible (Visser 1998). Second, collective bargaining in the Netherlands is subject to mandatory extensions by the government. This means that the Ministry of Social Affairs (and Employment) has the authority to impose collective agreements on firms that did not sign them. Extensions 'can be granted if employers that are party to the agreement (directly or as member of a signing association) employ at least 55 percent of the workers in the industry' (Freeman, **(p.110)** Hartog, and Teulings 1996: 1). Extensions require that at least one party that signed the agreement request them. Mandatory extension applied to about 17 percent of all companies and 9 percent of employees in the private sector in the mid-1990s (Visser and Hemerijck 1997: 90). In order to avoid the imposition of agreements in which they have had no say, employers (and unions) are motivated to participate in collective bargaining.

### 5.1.3. The UK

Until the 1970s industrial relations in the UK were characterized by a steady increase in union membership, an increase in the scope of collective bargaining, and growing involvement by unions in the implementation of social and economic policy (Edwards et al. 1992). Since the late 1970s, however, union membership in the UK has drastically declined. From a peak of 52 percent of the labor force in 1978, the proportion of union members declined to 45 percent in 1985 to 39 percent in 1990 and to 27 percent in 1995.[10] New union recognitions are rare (Metcalf 1994).

The structure of unions in the UK has been described as 'a complex pattern with no underlying logic' (Edwards et al. 1992: 32). In 1989, there were 313 trade unions with slightly more than 10.1 million members. While the 10 largest unions organized more than 60 percent of members, 76 percent of unions organized about 3 percent of members. Disparities in terms of members and resources are considerable. Moreover, the domain of a number of unions overlaps at any one sector or company. Within the minority of firms that recognize a union, for example, those with more than 1,000 workers have commonly recognized more than four unions. Multiunionism in the UK has a number of negative consequences (Addison and Siebert 1993). Among them are centrifugal tendencies (that have been associated with labor unrest), demarcation disputes among unions, and more complicated collective bargaining.

There is only one central confederation, the Trade Union Congress (TUC), but a number of unions (about 20 percent of the total) do not belong to it. The TUC does not have a bargaining mandate. It does not have the resources or organization to coordinate either collective bargaining or industrial disputes. As Batstone notes, 'the British TUC has a structure which imposes serious limits upon its ability to act as the representative of the union movement—it has very limited resources and few powers to impose sanctions or to control the actions of member unions' **(p.111)** (1989: 242). In terms of staff, resources, and finances, the TUC is one of the weakest federations in Europe (Visser 1990 *b*). The main role of the TUC has been as a powerbroker among other unions (some of them with more staff and resources than the TUC). The Bridlington Rules (adopted in 1939) determine that affiliated unions commit themselves not to infringe on the rights of other

members and give the power to intermediate to the TUC. Increasing differences among TUC affiliates, however, have considerably diminished the intermediation power of the TUC in recent years.

As for the composition of union membership in the UK, Metcalf explains that the 'probability of belonging to a union is higher for full-timers than for part-timers, for men than for women, for manuals than for nonmanuals, in manufacturing than in services, in large workplaces than in small ones, in northern Britain than in southern' (1994: 130). The great majority of union members are employed. Union members in the UK do not keep their membership when they lose their jobs and the unemployed are very unlikely to become members of a union (Edwards et al. 1992: 31). The decline in membership since the late 1970s has affected the TUC most. TUC unions had almost 12 million members in 1979 but in 1993 the number had reduced to only 6.8 million (Visser and Van Ruysseveldt 1996: 64).

Unions have traditionally been strongly connected to the Labour Party. There are historical reasons for this close relationship. While in many European countries social democratic parties helped to create unions, in the UK it was the unions that contributed to the creation of the Labour Party. Until the end of the 1970s, this connection was translated into a significant amount of union participation in the policymaking process when Labour was in power.[11] Today, most large unions are affiliated to the Party and control a considerable number of votes at the annual Labour Party Congresses.

Employers in the UK are unusual in the European context for several reasons. First, the UK has a large number of employers' organizations (more than 250). Membership in these associations is, however, very low compared to most other European countries. Companies belonging to an employers' association account for less than 50 percent of the total number of companies and fewer than 70 percent of employees work in companies belonging to an association (Visser and Ruysseveldt 1996). Second, the UK's employers are also uncommon in having turned their backs on multiemployer bargaining (Edwards et al. 1992: 17). The fact **(p.112)** that most collective bargaining in the UK is done by single employers significantly diminishes the incentives for employers to join associations. The Confederation of British Industry (CBI) comes closest to being a peak employers' organization in the UK. The CBI, however, mainly serves as a lobbying group both in London and in Brussels (Longstreth 1979). It does not negotiate on behalf of its members or sign agreements.

The collective bargaining system in the UK has been described as one in which managers and workers reach 'an accommodation within the workplace without a framework of rules laid down either by the state or by industry-wide agreements' (Edwards et al. 1992: 4). In this system shop stewards are very important both in their role as intermediaries for worker grievances and also as mobilizers of workers for union actions. Before the 1980s, few restrictions existed either on unions to strike or on employers to use lockouts. Since Thatcher's first electoral victory in 1979, as will become clear in the following pages, the number of restrictions promoted by the government has grown significantly. As a consequence of these restrictions, the coverage of collective bargaining has substantially

decreased and nonunionism is becoming the norm in the UK. The absence of unions in a company means the lack of collective bargaining agreements. Unlike the other two cases examined in this chapter, in the UK there are no provisions to extend collective bargaining agreements to companies that did not sign them. Also unlike Spain or the Netherlands, in the UK there is no distinction between the side of industrial relations having to do with works councils and the one having to do with union actions. In the 1970s, unions, feeling at the peak of their powers as worker representatives, defended 'single channel' representation and rejected proposals to introduce works councils and worker representation in company boards (Visser and Van Ruysseveldt 1996: 44).

## 5.2. Employment Protection in Spain in the 1980s and 1990s

I have divided the analysis of labor market legislation in Spain into three main periods. The first (1980–;6) can be characterized as one influenced by the legacy of the Francoist past and by the existence of some degree of coordination. In this period, employment protection in Spain was characterized by very high firing costs for those enjoying stable employment and by the emergence of outsiders. The second (1986–;95) can be best described as one in which the connection between social democratic government and the promotion of outsider labor was confirmed and in which national **(p.113)** coordination was abandoned. And the final one (1996–;2000) is most clearly identifiable by the existence of a conservative government and the beginning of a reduction in insider protection.

### 5.2.1. 1980–;6: Coordination

According to most scholars analyzing the Spanish case, labor market legislation at the beginning of the democratic era was greatly influenced by the practices, policies, and institutions set up during the Francoist period (Segura 2004). Under Franco, labor militancy had been kept in check by numerous concessions to permanent workers, chief among them were very high firing costs (both in terms of the payments to be received by the worker and of the procedures needed to grant authorization).[12] During the dictatorship, labor relations had been regulated by the *ordenanzas laborales* and the transition to democracy marked the emergence of a legal framework for collective bargaining, first through the Moncloa Pacts (1977) and then through the approval of the Workers' Statute (*Estatuto de los Trabajadores*) and the Employment Law (*Ley Básica de Empleo*) in 1980.

The Workers' Statute and the Employment Law of 1980 did not significantly alter some fundamental characteristics of previous regulations but rather added to them. The Workers' Statute promoted a reduction in the scope of national legislation determining individual workers' rights and an increase in the role of collective bargaining (Recio 1998). Regarding worker representation, these laws introduced the basis for a dual model characterized by unions and workers' committees (or works councils).

Two characteristics of the 1980 legislation are most relevant to my argument. Through the Workers' Statute and the Employment Law, the *Unión de Centro Democrático* (UCD)[13] government modified the requirements needed to dismiss individual workers

and introduced new contracts for temporary employment.[14] Regarding firing costs, the 1980 Employment Law expanded the definition of termination with cause (cause was now understood to include technological and economic motives), allowed for termination without cause (meaning due to the worker's shortcomings, once these shortcomings were demonstrated), and, in some cases, reduced severance pay (Morán 1996). In reality, however, the effects of these measures were very limited. Firing costs remained mostly untouched and, some would argue, were even reinforced by the elimination of some of **(p.114)** the wage flexibility and overtime regulations of the Francoist period and by the introduction of new limitations on functional and geographical mobility (Rhodes 1997: 107).

Equally significant for subsequent insider–;outsider dynamics, the 1980 Workers' Statute and the Employment Law brought about the legalization of several new forms of temporary employment. As Morán points out, the Workers' Statute did not take away any of the regulatory benefits of the standard stable/indefinite contract but it accepted the need to promote temporary employment as a solution to cyclical economic problems (1996: 23, also see Recio 1998: 120–;1). Fixed-term contracts (whether *temporal*, *en prácticas*, or *en formación*) were therefore given legal status and the door was opened for the government to use them in some circumstances (e.g. to promote the employment of those looking for a first job).

The government change in 1982, when the PSOE led by Felipe González won the general elections by an overwhelming margin, did not result in any reversal of labor market legislation. In fact, the massive increase in unemployment experienced in the early 1980s culminated in the decision by the González government to extend the use of temporary contracts in 1984. The PSOE government even introduced a new form of temporary contract (the *contrato de fomento de empleo*, or contract for the promotion of employment) that made it possible for employers to use a temporary contract for up to three years without having to provide a reason.

Since the early 1980s, therefore, the Spanish labor market has been characterized by high firing costs for those enjoying stable employment and increasing flexibility for those stuck with temporary employment. Since this is an important point in my analysis, I will provide a more detailed explanation. At that time, there were four kinds of contracts with different dismissal costs attached to them.[15] First, there was the standard indefinite contract. For a standard contract to be terminated with cause, the employer needed only to send a letter and pay compensation. This compensation consisted of twenty-days' salary per year worked in the job, up to a maximum of twelve months' salary. However, the worker could challenge the dismissal in court and, if the termination was considered without cause, a judge could reinstate the worker or increase the compensation to forty-five-days salary per year worked, to a maximum of forty-two months' salary. As pointed out by Rhodes, the threat of court action increased the average compensation for dismissal to more than the regulated twenty days per year (1997: 108). Collective dismissals, on **(p.115)** the other hand, were defined as those involving more than two workers (regardless of firm size) and they required authorization from the Ministry of

Labor (not a judge). The procedure was long (between fifty and seventy-five days), the administrative red tape was considerable and great flexibility was granted to the authorities. According to Toharia, the Ministry of Labor had a tendency to consider all collective dismissals/restructurings that did not have worker support 'arbitrary' (1993: 123). Second, there was the ordinary temporary contract (*temporal ordinario*), which was a contract for a particular activity of a temporary nature. There were no time limits and when it was over the worker obtained no compensation for time worked and had no right to a legal challenge. Third, there was the temporary contract for the promotion of employment, which lasted a minimum of six months and could be renewed for a maximum of three years (if extended over this period of time, they automatically became indefinite contracts). When the contract was over, the worker had no right to a legal challenge but compensation equal to the salary of twelve days per year worked was granted. Finally, there were the training contracts (*contrato en prácticas* or *contratos para la formación*). They were contracts for people younger than twenty years of age or who had just finished studying. These were like the temporary contracts for the promotion of employment but the worker received no compensation upon termination and they did not become permanent contracts if extended over the maximum time allowed by law.

The nature of labor market legislation was therefore highly protectionist of those with stable employment (see Toharia 1993; Jimeno 1996; Rhodes 1997). So much so that the real costs of dismissals in Spain quite possibly were the highest in Europe (Jimeno 1996: 6). More importantly, the introduction of flexibility was limited to a very intense promotion of temporary contracts. The most obvious consequence of this process was the promotion of profound insider–;outsider differences in Spain.

Insider protection in Spain at this time was also affected by the behavior of unions. UGT had emerged from the dictatorship in a condition of clear inferiority in comparison to CCOO. Numerous authors have argued that UGT's cooperative stance since 1977 was motivated by its need to gain legitimacy and, therefore, support (see e.g. Morán 1996: 26). Regarding labor market legislation, the modernization in labor relations defended by UGT also represented the setting up of a legal context in which UGT could challenge the near hegemony in worker representation enjoyed by CCOO. This was the case particularly with the Union Freedom Law of 1985 (*Ley Orgánica de Libertad Sindical*) which strengthened the position **(p.116)** of the two largest trade unions through the provision of state subsidies, of compensation for losses since the Civil War, and of facilities from the old Francoist unions (Maravall 1995: 222–;4).

Because it served to strengthen UGT as an alternative to CCOO, it was with respect to wage bargaining that UGT's willingness to coordinate was most consequential during the 1980–;6 period. After the Moncloa Pacts, wage bargaining coordination was promoted in a series of national social pacts. The *Acuerdo Marco Interconfederal* (AMI), signed in January of 1980, was the first. The AMI was valid for 1980 and 1981 and it was signed by UGT and CEOE. At this time the relationship between UGT and PSOE was quite close (the PSOE representatives in Parliament, for example, had adopted all of UGT's suggestions for their proposed amendments to the Workers' Statute)[16] and participation in national

coordination was seen by the UGT leadership as a way to attract members (and voters in works council elections). The main characteristic of AMI was the agreement by the cosigners to keep salary increases within a 13 to 16 percent band in 1980 and an 11 to 15 percent band in 1981 (Duréndez Sáez 1997). There was also a 'dropping-out clause' (*claúsula de descuelgue*) specifying the conditions under which a company would be allowed not to follow the wage recommendations. As Royo points out, although CCOO had not taken part in the agreement and opposed its implementation in the workplace, the AMI was successfully applied in the lower levels of bargaining (2000: 78). It is, in any case, clear that the strategy of cooperation, moderation, and responsibility paid off for UGT. By the time the first works council elections took place later in 1980, UGT greatly improved its position by obtaining 30 percent of representatives while CCOO experienced a setback (considering its previous position) and obtained only 31 percent of representatives.

Wage bargaining coordination continued with the *Acuerdo Nacional sobre el Empleo* (ANE), which was signed by UGT, CCOO, CEOE, and the UCD government in June of 1981 but would take effect in 1982. The ANE contained a salary increase recommendation (a 9 percent to 11 percent band) but also introduced unions (and the employers' association) in some governmental institutions (Social Security, Employment Agency, etc.). The participation of CCOO in the ANE was no doubt affected by the success of UGT's moderate strategy in the previous works council elections. But all social partners were also strongly influenced by the attempted *coup d'état* in February 1981. Despite CCOO's participation, **(p.117)** the results of the works council elections in 1982 confirmed the growth of UGT (with 37 percent of representatives) and the more sluggish performance of CCOO (which obtained 33 percent).

As was the case with labor market legislation, the electoral victory of PSOE in 1982 did not represent a change for wage bargaining coordination. As Bermeo and García-Durán have argued, the PSOE government was like the UCD one 'in that both parties were interested in using incomes policy as a means of controlling inflation and promoting investment' (1994: 110). From very early on, the González governments emphasized wage moderation and temporary employment as the way to international competitiveness (Recio and Roca 1998).[17] The *Acuerdo Interconfederal* (AI) was signed in 1983 by both unions and CEOE.[18] Although the government did not sign the agreement it was an active organizer of the negotiations and, once it was agreed, a supporter of it. The AI established limits for salary increases (between 9.5 percent and 12.5 percent) and also contained a number of clauses (about productivity, security in the work place, absenteeism, etc.) that were taken from the AMI.

No national agreement was signed to cover 1984. Although there had already been a drift between the government and the unions because of the industrial restructuring policies proposed by González, the lack of a social pact was mainly caused by the insurmountable differences between the unions and the employers' views on salary increases. Boyer, the PSOE's Finance minister, had declared that his goal was to reduce inflation to 8 percent by limiting wage increases to at most 6 percent (Royo 2000: 84). The

unions strongly rejected this proposal and when, in their negotiations with the CEOE, employers would not accept an increase above 6.5 percent, no agreement was reached (Morán 1996: 30).

For 1985, however, a final attempt to coordinate wage demands was successful. The *Acuerdo Económico y Social* (AES) was signed in October 1984, to take effect during the following two years. The objective had been clearly stated by González in public statements that preceded the agreement: the control of wages was considered a fundamental weapon in the control of inflation (Duréndez Sáez 1997: 164). The belief that a more confrontational strategy was more beneficial at this stage for **(p.118)** membership and works council election goals, caused CCOO leaders to abandon the negotiations and reject the agreement once it had been signed by UGT, CEOE, and the government. The AES included salary objectives for 1985 and 1986 and a set of government intentions about the size of the public sector, unemployment benefits, and the reform of labor relations law (to make it more similar to that of other European nations). This last clause was one of the most controversial aspects of the agreement because it was interpreted by employers to mean the lowering of dismissal costs and the end of administrative authorization for dismissals. Between October and December of 1986, works council elections took place. UGT obtained 41 percent of the representatives while CCOO obtained 35 percent. Although these elections confirmed UGT as the most powerful confederation in Spain, when the results were analyzed in more detail it became clear that there was a decrease in UGT support in big companies, the public sector, and other areas in which the power of Spanish unions had traditionally rested. This turn of events, as Morán argues, convinced the UGT leadership that the subordination of their strategies to the policies of the PSOE government endangered the subsequent success of the union (1996: 33, see also Maravall 1995: 226). The age of (partial) coordination was over.

### 5.2.2. 1987–;95: End of Cooperation and Promotion of Outsiders

Two important developments took place during this period. First, the end of coordination affected the influence of insiders on union strategies. Higher levels of coordination can limit the ability of insiders to free ride. Coordination in the labor market promotes the consideration of non-particularistic goals by the social partners. The collapse of coordination in Spain intensified the differences between insiders and outsiders and made the interests of insiders all the more important to unions and the social democratic party. Second, the changes in employment legislation described in section 5.2.1 became the engine for an enormous increase in temporary employment. As insiderness was being reinforced, therefore, outsiderness became a defining characteristic of the Spanish political economy.

Up to 1985 there had been some degree of cooperation between the unions (at least as far as UGT was concerned) and the socialist government. From 1986 on, however, the attitude of the social partners shifted away from national coordination quite dramatically. Coinciding with an upswing of the economy, the PSOE government declared that its main **(p.119)** concern was still inflation, and to control it, endorsed an extremely strict

monetary policy. The government's tight monetary policies had already caused friction between UGT and PSOE but it became even more divisive when the economy was growing. The determination of the González administration in its anti-inflationary objectives was considered by the unions to imply a tight control of wage increases. Union officials, on the other hand, wanted the better economic circumstances to be coupled by an increase in wages and public spending. The insistence of the government on inflation as the most relevant macroeconomic goal and on the moderation of wage demands as the way to reduce it made the collaboration of unions complicated (Recio and Roca 1998). This was particularly clear in the failure of conversations between the government and the unions after González's economic team had declared their intention to recommend wage increases below the predicted level of inflation (Morán 1996: 33).

Different explanations have been provided for the breakdown of coordination. Some authors (see e.g. Maravall 1995) have argued that the end of coordination was influenced by the consolidation of democracy in Spain, others (like Recio and Roca 1998) that the UGT leadership became convinced that the government was not committed to cooperating with the union and had rather used it to rubber-stamp measures previously taken. These are undoubtedly important factors but it is my contention that UGT's decision to conclude cooperation was also significantly influenced by two additional issues. First was the consideration that whatever legitimacy and institutional gains were to result from cooperation, they had already been obtained.[19] The strategy of cooperation and responsibility had already paid off with workers (in the works council elections of 1980, 1982, and 1986) and with the government (by benefiting from legislation, like the 1985 Union Freedom Law, that favored UGT as the alternative to CCOO).

As for the second factor, I would argue that in the Spanish labor relations context (characterized by union competition for members, low union density, and intermediate collective bargaining centralization) the presence of a social democratic party in government, instead of a conservative one, may have made agreement less rather than more likely. Union leaders seemed to believe they needed to radicalize their **(p.120)** positions to distinguish what they offered to prospective members/voters from what could simply be obtained from the social democratic government. Attracting union members and works council voters is a vital necessity for a Spanish union and this is difficult to do if the demands of UGT seem indistinguishable from the objectives of the governing social democratic party. If members and potential members do not feel that there is some ‘value added’ to a union's demands there is no reason to support that particular union. The need to radicalize demands in a direction consistent with the interests of the most numerous constituency of unions (insiders) is particularly strong when a ‘rival’ union (in this case, CCOO) can attract members/voters by catering to those interests. Following this logic, the cooperation of UGT with the PSOE government from 1982 to 1985 was incidental, the result of the need to obtain some political legitimacy and institutional advantages to improve the situation in which the union found itself at the end of the dictatorship. Once these were accomplished, separating union demands from the objectives of a social democratic government was paramount. The relevance of this interpretation is emphasized by the following exchange between Felipe González and

Antón Saracíbar, UGT's secretary of organization, during the PSOE's Federal Committee meeting in October 1987. According to Maravall, González asked what was needed for UGT's cooperation and Saracíbar answered, 'all unions want coordination but mainly with a conservative government. With a social democratic government, a union like UGT has no vital necessity for coordination' (1995: 227).[20]

The attitude of the other social partners toward coordination was equally negative at this time. CEOE officials were ready to admit that national pacts were 'mortally wounded' (Duréndez Sáez 1997: 188). Although employers had been strong supporters of coordination, the experience of the previous years had made them much less enthusiastic. They were dissatisfied in particular with the ineffectiveness of national recommendations to moderate wage increases, with the Spanish wage structure (in which fixed components dominate variable ones to the detriment, in the employers' view, of productivity), and with the unwillingness of the government to address dismissal costs. The CCOO leadership, on the other hand, had never been a convinced participant in coordination and in fact regretted having participated in the 1982 and 1983 pacts. Agustín Moreno, secretary of the *Acción Sindical* section in CCOO's Confederal Committee until 1995, recognized that participation in these pacts **(p.121)** generated problems between CCOO's leadership and the rank-and-file and lower-level union officials (Moreno 1989).

The breakup of cooperation and the increasing animosity between UGT and the PSOE government culminated with the organization of a general strike by UGT and CCOO in December of 1988. The strike was very successful and enjoyed a great degree of popular support. According to some analysts the final straw that precipitated the strike was the introduction of a *Plan de Empleo Juvenil* (Youth Employment Plan), which proposed a further flexibilization of contracts for young people as the method to combat unemployment (Adelantado, Noguera, and Rambla 1998). But, as the preceding paragraphs make clear, the reasons for the breakdown of coordination had accumulated and promotion of employment precariousness (an important element of the PSOE's strategies since 1982) does not seem the most significant motivation.[21]

As coordination collapsed, the economy experienced a significant amount of growth and unemployment started to decline. Because of the legislation changes described in section 5.2.1, however, the overwhelming majority of the employment created at this time was characterized by temporary contracts. According to Dolado and Bentolila, between 1986 and 1990 total employment increased by 3 percent per year but a whopping 98 percent of all contracts registered at employment offices were temporary ones (Dolado and Bentolila 1992: 12). As a result, by 1992 over one third of all employees worked under temporary contracts. Moreover, temporary contracts had not only become the main form of entry into the labor market but also the main form of exit from it. The role of unemployed people as the insiders' buffer against economic downturns is clearly reflected by labor market exit figures. As Richards and García de Polavieja point out, even in 1991, when unemployment was at its lowest since 1982 and the economic cycle was at its peak, 60 percent of unemployment and 65 percent of long-term unemployment had been originated by the termination of fixed-term contracts (1997: 16).

The general strike and the decrease in electoral support suffered by the PSOE in the elections held in the fall of 1989 (when the socialists lost the absolute majority they had enjoyed since 1982) promoted a temporary lull in labor market policy. By 1991, the government was engaged in unsuccessful negotiations with the social partners to convince **(p.122)** them of the need for a Competitiveness Pact that would promote further labor market flexibility and a commitment to wage moderation. In spite of this failure, the beginning of an economic downturn and the prerequisites for the Maastricht Treaty provided the excuses needed to design these policies without union support. In 1992, the government approved a Convergence Plan whose main characteristic was the reduction of public spending on unemployment benefits (the conditions to receive them became more exclusionary). Then in 1993, immediately after the general elections that had confirmed PSOE rule but again with a decrease in support, the González government started a dialogue with unions and employers about labor market reforms. This dialogue did not prove productive and, in January of 1994, UGT and CCOO organized a second general strike against the proposed labor market legislation. Although the general strike was again quite successful (although less so than the one in 1988), the PSOE government did not change its approach and approved a Law-Decree modifying the Workers' Statute (Cachón Rodríguez 1997: 87).

The 1994 labor market reforms contained five basic changes: (*a*) the creation of two new kinds of contracts with very little social protection, the learning contract (*contrato de aprendizaje*) and the part-time contract (*contrato de tiempo parcial*);[22] (*b*) the legalization of temporary employment agencies; (*c*) the legalization of private hiring intermediaries; (*d*) the transformation of existing regulations to provide employers with greater discretion in matters such as geographical mobility and the length of the working day (Recio and Roca 1998: 148); and (*e*) the transformation of some of the requirements for worker dismissal. The two most relevant legislative changes for my analysis are those related to the further flexibilization of temporary employment and those affecting firing costs.

About the extension and facilitation of temporary contracts, it seems clear that three out of the five areas of change directly address this issue. The government attempted to promote the use of temporary contracts by creating two new contracts with very low levels of protection and, therefore, employers' contributions (see Martín and Santos 1994; Recio and Roca 1998). Part-time contract holders, for example, were not covered for ordinary sickness and received no unemployment benefits (Rhodes 1997: 111). In addition, temporary contracts were not only made cheaper but also more available by the legalization of temporary employment and private hiring companies. These measures can only be interpreted as a sign **(p.123)** of the PSOE government's willingness to promote a further increase in ‘precarious’ employment (an almost insignificant portion of the contracts signed were indefinite).

The decisiveness that dominated the reforms concerning temporary employment was not present, however, in the labor market measures affecting the employment protection of insiders. The 1994 legislation initiative included: the acceptance of organizational and

production reasons as valid justifications for collective dismissals; a more restrictive redefinition of collective dismissals; and the specification of fifteen days as the maximum length for the labor authorities to consider a collective dismissal application. The effectiveness of these changes was questioned by the CEOE, and more drastic reforms (like eliminating the need for authorization altogether) were again demanded, but the González government had no interest in lowering the protection of insiders. I agree with Rhodes' argument that lowering the firing costs for those enjoying permanent employment would have undoubtedly been a 'major vote loser' for the PSOE government (1997: 109). The words of Marcos Peña Pinto, General Secretary of Employment and Labor Relations in the Ministry of Labor, leave little doubt regarding the intentions of the 1994 reforms. Together with the promotion of temporary employment described above, Peña defines the objective of the reforms as '(t)o protect employment by maintaining the procedures for the dismissal of workers as rigid as possible' (Peña Pinto 1994: 52).

Most observers would agree that the effects of the 1994 labor market reforms on firing costs were minimal. This is first because collective dismissals still required administrative approval in a way that, according to Jimeno, obligated employers to accept greater compensation than that stipulated by law in return for the unions' agreement (1996: 8–;9). Then there is the fact that a great number of the individual dismissals that went to court resulted in the worker receiving more compensation than established by law for terminations with cause. Since the job protection of insiders remained practically untouched but temporary employment was significantly extended, the 1994 labor reforms did not do anything to reverse (in fact, they reinforced) the growth of outsiderness in Spain (Jimeno 1996: 9). As Jimeno and Toharia argue, it is clear that since 1982 the PSOE governments had opted for the flexibilization of the labor market in a very peculiar way: 'reducing the job security of new entrants into employment (if they were hired under fixed-term contracts) without reducing the job security of those already employed under permanent full-time contracts' (Jimeno and Toharia 1994: 109).

**(p.124)** 5.2.3. 1996–;2000: Conservative Government and Decline in Insider Employment Protection

With the narrow victory of PP in the general elections of 1996 a new period for insider employment protection begins. The most significant conservative legislation of this period was the 1997 labor market reforms. The 1997 reforms were substantially different from those attempted by the previous PSOE governments for one main reason: the protection of insiders is lowered for the first time. Also, unlike the PSOE government's 1994 reforms (vocally opposed by the unions), the PP government actively sought the participation and eventual acceptance of the social partners.[23]

In April of 1997, CCOO, UGT, and CEOE signed three pacts under the tutelage of the PP government. These were the *Acuerdo Interconfederal para la Estabilidad del Empleo* (AIEE), the *Acuerdo Interconfederal sobre Negociación Colectiva* (AINC), and the *Acuerdo Interconfederal de Cobertura de Vacíos* (AICV). The AINC represented an effort to once more reshape collective bargaining in Spain. While the 1994 legislation

represented changes in collective bargaining directed to transform national law, the 1997 changes were meant to promote change from within the collective bargaining system itself (del Rey Guanter et al. 1998). The AINC was meant to provide better guidelines for the issues discussed at each level of bargaining and to promote sectoral bargaining without taking away from the autonomy of company bargaining (CES 1997: 344–;56). The AICV, on the other hand, represented the continuation of a set of pacts (starting with the Workers' Statute) directed to substitute the regulations that existed in the pre-democratic period (*Ordenanzas Laborales* and *Reglamentaciones de Trabajo*).

It is, however, the AIEE that most relevantly affects the insider–;outsider arguments presented in this chapter. The basic idea guiding the AIEE reforms was that the promotion of stable employment can only be obtained by reducing the protection of insiders. As Sáez points out, a reduction in dismissal costs was expected to produce more employment stability (1997: 322). At the same time, some of the conditions for temporary employment became more limited. More concretely, a new indefinite contract was created. The 'contract for the promotion of **(p.125)** indefinite employment' (*contrato de fomento de empleo indefinido*) was to be used by individuals who had experienced difficulties entering the labor market and by those holding temporary contracts.[24] Because of the lower dismissal compensation of the new indefinite contracts, the AIEE agreement was expected to reduce average dismissal costs by approximately 25 percent for an employee with ten years of experience (Sáez 1997: 322). Temporary employment was expected to decrease as a result of new legislation providing employers with fiscal and social security incentives for creating indefinite jobs. It was also limited by a reduction of the kinds of activities covered by ordinary temporary contracts (those signed until the completion of a particular task) and the transformation of the learning contract (the *contrato de aprendizaje* created in 1994) back into the previously abolished training contract (*contrato para la formación*). The training contract was not to be used as a contract to promote employment but rather for the provision of training for workers between 16 and 21 years of age.[25] Finally, the AIEE further improved temporary employment by increasing the levels of protection of part-time contracts.

The attitude of the conservative party toward these reforms is not hard to understand within my insider–;outsider framework. A lowering of the protection of insiders benefits employers and as such is one of the main strategies hypothesized in my argument. Limiting the use of temporary employment, as well as the improvement in protection for part-time employment, seems also reasonable (if coupled with a general decrease in insider protection). A conservative party without a clear electoral advantage would, logically, be interested in attracting outsider support.

The reasons why this pact was signed by unions characterized by the staunch defense of insiders are more difficult to explain.[26] Schwartz argues that, at this point,

> unions confronted the evidence of their separation from public opinion, since the majority of people were convinced that legislation seeking to protect stable workers doomed many to unemployment. Something needed to give way on the side of the privileged. Union leaders would have paid a very high price in terms **(p.126)** of

> reputation and support if it had become obvious that they were responsible for the breakdown of the negotiations.
>
> (Schwartz 1997, my translation)

There is some truth to this. It is also the case that, even after these reforms, unions could argue that they had been once more successful in defending the protection of insiders. Cándido Méndez, General Secretary of CCOO, and Antonio Gutiérrez, General Secretary of UGT, strongly emphasized in their evaluations of the pact how the dismissal compensation of those holding standard indefinite contracts had not changed at all (see e.g. *El País* of April 17, 1997 and *El País* of April 23, 1997).

Finally, the victory of PP in the general elections of March 2000 (which resulted in an absolute conservative majority) immediately resulted in proposals to further reduce dismissal costs. In October 2000, the second PP government proposed an extension to all new contracts of the regulations limiting the compensation for termination without cause to thirty-three days per year worked, up to twenty-four months. Unencumbered now by the limited electoral support of their first administration, members of the new conservative government hinted first to employers and then to the general public that this time they would not wait for the agreement of unions and that they would pass the proposed legislation without union cooperation (*El País*, October 25, 2000 and interview with Rodrigo Rato, Minister of Finance, in *El País*, October 29, 2000).[27]

## 5.3. Employment Protection in the Netherlands

To understand employment protection in the Netherlands from 1970 to 2000, we need to explore its close relation to insider wage demands. As was the case in Spain, insiders (and the unions that represent them) want both employment protection and wage increases. The analysis below will show that, in increasingly challenging circumstances, however, governments can only offer insiders the continuation of high levels of employment protection in return for wage moderation. The development of employment protection in the Netherlands can be divided into two periods: the 1970s, characterized by the success of insiders in securing both high levels of employment protection and high wages; and the 1980s and 1990s, when insiders sacrificed wages to maintain high employment **(p.127)** protection levels and outsiders emerged as an extremely significant portion of the labor market.

### 5.3.1. Protection and Wages: The 1970s

The starting point in my analysis is one that is favorable to insiders. In the 1970s, insiders in the Netherlands enjoyed high levels of employment protection and increasing wages. I will analyze these two factors separately.

Levels of employment protection increased considerably in the early 1970s, as in many other OECD countries, through numerous legislative initiatives (Van Peijpe 1998). Most Dutch jobs are covered by a contract of unlimited duration (De Neubourg 1990: 102). The costs of ending these contracts are generally high. After systematically reviewing legislation, Mosley (1994) concludes that the Netherlands belongs in the group of OECD

countries with the most restrictive dismissal regulations. The Dutch case is grouped with Spain, Italy, Portugal, and Greece.[28]

These high levels of employment protection are not so much the consequence of the regulated dismissal costs that employers must pay but of the 'complex and lengthy procedures necessary to effect individual or collective dismissals for economic reasons' (De Neubourg 1990: 105). In the Netherlands, a preliminary procedure has to be followed before any dismissal can be implemented. An employer needs an 'acceptable' reason to lay off workers and, under the Extraordinary Labor Relations Act of 1945, the prior approval of the director of the regional employment office for nearly all types of dismissal (Gorter and Poot 1999). For individual dismissals, although the employment office accepts a great majority of applications, the prior approval process entails a written request, a written defense (sometimes also an oral hearing) and consultations with representatives of employers and unions. In addition to the approval process, employers have to give a period of notice that can be as high as twenty-six weeks for workers over forty-five years of age (Van Peijpe 1998: 141). A number of other special groups (like pregnant women, absentee or sick workers, and members of work councils) are entitled to greater protection. Moreover, after the decision is made by the regional employment office, workers can challenge dismissals in court. In some cases, an alternative approach to individual dismissals has been for employers to apply directly **(p.128)** to a court. The judge decides on the amount of compensation to be paid to the worker. In this case, the process is generally faster but compensation is also higher.[29] Because of the relative gain in procedural ease, this approach to dismissals is increasingly popular in the Netherlands (Gorter and Poot 1999: 7).

The process is even more complicated for collective dismissals. The period of notice is longer since laying off twenty or more workers (within a three-month period) requires the employer to officially notify not only the regional public employment office but also the works council and the trade union. The employment office's regional director then gives a month to all actors involved to reach a 'social plan' (Visser and Hemerijck 1997: 139). In addition to this, contract suspensions are legally discouraged. Like Spain, and unlike some other countries with relatively high levels of protection (e.g. Sweden or Norway), firms in the Netherlands cannot adjust employment through temporary lay-offs or short-term work (see De Neubourg 1990 for details).

Until the 1970s, wage moderation had been an essential part (if not the most essential part) of Dutch corporatist politics and economic performance (see e.g. Wolinetz 1989). In the 1950s and 1960s, the government used the Dutch corporatist structure to promote the participation of the social partners in the design and implementation of incomes policies. In an economic context characterized by an expanding world economy and stable mass production, a low-wage strategy based on effective incomes policies was very successful (Hemerijck 1995). However, Wolinetz convincingly argues that corporatist wage moderation 'became increasingly difficult in the full employment economy of the 1960s and impossible in the highly polarized 1970s' (1990: 419). Starting in the 1960s, then, the dam burst and the near universal compliance with tripartite economic

indications that had been the norm since 1945 could no longer be taken for granted (Gladdish 1991: 139). By 1970, after general rises, the Netherlands had become a high wage economy and the Dutch were quite wealthy (in international terms). The wage moderation that had followed World War II was now not easy to accomplish (Braun 1986).

The collapse of wage moderation in the 1970s was influenced by a number of factors. Following the general elections of 1972, the most leftist government of the postwar period was formed. Despite the lack of strong **(p.129)** parliamentary support, the Den Uyl (PvdA) administration committed itself to, in the words of Hemerijck, an ambitious program characterized by the 'redistribution of wealth, knowledge, and power' (1995: 206). Facing the consequences of the first oil crisis, Den Uyl opted for a Keynesian strategy of fiscal stimulation. His objective was a corporatist deal exchanging fiscal stimulation for wage restraint but the radicalized Dutch unions wanted more than the government, with weak support from the Christian Democrats, could offer (Hemerijck, Unger, and Visser 2000: 211). Unable to promote wage moderation, the Den Uyl government imposed wage and income freezes in 1974 and 1976 but the effects were minimal (Hemerijck, Van der Meer, and Visser 2000: 260). Den Uyl's problems with increasing wage levels were exacerbated by two factors. First, Den Uyl saw the support of the unions as the key to political survival and was reluctant to antagonize them (Visser 1992). Second, since 1967, unions had been able to secure the inclusion of automatic price escalators in collective agreements. According to Visser and Hemerijck, by 1980 automatic price escalators determined 75 percent of annual wage increases (1997: 96).

### 5.3.2. The 1980s and 1990s: The Return of Wage Moderation and the Emergence of Outsiders

Although the unemployment rate had grown from about 2.3 percent in 1973 to more than 6 percent in 1980, a vicious circle of high wages and protection for insiders and increasing unemployment for outsiders dominated the 1970s. The deadlock was broken by the conservative government that took office in 1982. Led by Ruud Lubbers, the new CDA-VVD coalition considered the slowdown of economic and employment growth to be the result of high labor costs and public expenditures, low profits, and excessive levels of government intervention (De Neubourg 1990: 2). Although the Lubbers government is often referred to as a 'no nonsense austerity coalition',[30] its conservative orientation is evident. Gladdish, for example, declares that 'there can be no doubt that the alliance between the CDA and the Liberals proved a crucial point in the complexion of recent politics, for it shifted the balance manifestly to the right' (1991: 61). It was also important that the VVD had almost as high a percentage of the vote as the CDA in the 1982 elections and consequently occupied six ministries (eight for the CDA) and had eight state secretaries (as many as the CDA).

**(p.130)** The key objective in the CDA-VVD government's strategy was to decrease labor costs, which would increase profitability, investment, and employment (De Neubourg 1990: 3). To accomplish this, pressure was applied on the social partners to come to an agreement that would secure wage moderation. First, the government signaled a break from the policies of the past by announcing the suspension of price

compensation payments and the freezing of public salaries, social benefits, and the minimum wage (Visser and Hemerijck 1997: 100). Then it made known that 'it would intervene directly in the wage bargaining process should the social partners (…) fail to work out a meaningful program for wage moderation at the national level' (Jones 1998: 2–;3). This threat prompted the social partners to negotiate earnestly and on November 24, 1982, the *Wassenaar* Accord was signed.

First and most importantly, *Wassenaar* signified the commitment of the social partners to wage moderation in exchange for working time reductions. On wage moderation, the agreement recommended unions to 'forego nominal wage increases and suspend the payment of cost-of-living adjustments'. On working time, it recommended employers not veto negotiations regarding a reduction of working time from 40 hours per week (Visser and Hemerijck 1997: 81). *Wassenaar* also started the transformation of the wage bargaining system in the Netherlands from one characterized by high centralization and ineffectiveness (in the 1970s) to a more decentralized but very coordinated one (Visser 1990 *a*).

The results of *Wassenaar* were consequential. First, *Wassenaar* promoted wage moderation and therefore improved the price competitiveness of Dutch products (Hemerijck, Unger, and Visser 2000). Between 1982 and 1985, average real wages fell by 9 percent (Visser and Hemerijck 1997: 101). Also by 1985, cost-of-living and escalator clauses had become very rare in collective agreements (Visser 1992). Average unit wage costs from 1983 to 1987 declined by 20 to 30 percent compared to the average for the 1975–;80 period, and the profitability of manufacturing firms increased by more than 30 percent (De Neubourg 1990: 3–;4). *Wassenaar* also resulted in some significant working time reductions. The working week for civil servants, for example, fell from 40 to 38 hours and twelve extra vacation days per year were added (Andeweg and Irwin 1993: 193).[31] Between 1987 and 1997, the average working week for **(p.131)** the whole economy was brought down from 40 to 37.5 hours (Hemerijck and Van Kersbergen 1997: 267).[32]

The reasons why Dutch unions signed the *Wassenaar* Accord, especially after more than a decade of refusing to engage in wage moderation, need to be explored in more detail. One of the most important factors undoubtedly had to do with the trade-off included in the agreement. As the paragraph above indicates, the working-time reduction obtained in exchange for wage moderation was an attractive feature for unions worried about the reaction of insiders (Hemerijck 1995: 218–;9). The uncertainty about increasing unemployment may be another reason. The restructuring process that the country was going through contributed to the willingness of insiders to sacrifice wages to maintain the levels of employment protection. As De Beer argues, it seems logical to assume that union members were prepared to accept wage moderation 'in order to save their jobs' (1999: 5). A third reason has to do with union legitimacy. By signing the agreement, the unions retained their role as the legitimate representatives of the employed and therefore maintained their influence over policymaking and, in particular, social policy (Wolinetz 1989; Jones 1998). Also influential in the change of union strategy, finally, were the losses in membership experienced in the late 1970s and early 1980s. During this time, unions

failed to attract new and especially young members.

In 1986, the general elections can be considered a referendum on the Lubbers government. The results seemed to indicate that there was a high degree of popular support for the conservative government's policies. Although the Labor Party increased their share of the vote from 30.4 percent in the 1982 elections to 33.3 percent, they were 'overshadowed by the striking success of the CDA which represented the first significant advance of the Christian grouping since the 1960s, and made the CDA the largest party in the Second Chamber' (Gladdish 1991: 65). The election allowed the CDA and the VVD to recreate their coalition with a majority of twelve seats. The distribution of seats in the cabinet reflected the fact that support for the VVD had declined (nine ministers for the CDA vs. five **(p.132)** for the VVD), but the policies pursued by the new conservative coalition did not change.

The return to wage moderation as a fundamental feature of the Dutch political economy was so generally accepted from the first Lubbers government until 2000 that there is little to say about developments after the 1986 elections. As a result of the 1989 election, the Christian democrats formed a coalition with the social democrats but the attitude of the new CDA-PvdA government did not change regarding the desirability of wage moderation.[33] The only transformation concerned the exchange behind wage restraint. While previously, wage moderation had been 'traded' for shorter working hours it now was accompanied by 'lower taxes for workers and lower social contributions for employers, made possible by improved public finances and a broader tax base' (Hemerijck, Unger, and Visser 2000: 221).

The participation of the Labor Party in a government that made wage restraint its most important goal may seem surprising (especially when compared to the policies of the PvdA in the 1970s). During the 1980s, however, the Labor Party had changed its attitude and had become much more pragmatic (for details, see Hillebrand and Irwin 1999). A conscious attempt to make themselves into acceptable partners for the Christian democrats was reflected in a very moderate election program in 1989. Once the cabinet was formed, the fact that Wim Kok (now leader of the PvdA but previous chairman of the FNV) took the Finance Ministry also hinted at the new expediency of the social democratic party. The emphasis on wage moderation in fact continued after the formation of the first and second 'purple'[34] coalitions led by Prime Minister Wim Kok, from 1994 to 1998 and from 1998 to 2002 (see Hoogerwerf 1999: 162).

Turning now to employment protection, the pattern we encountered in Spain in the 1980s is repeated in the Netherlands: wage moderation is offered to governments by insiders as a way to maintain their employment protection. Mosley points out that dismissal regulations have remained significantly unchanged through the 1980s and early 1990s (1994: 79). The OECD's overall strictness of protection against dismissals index confirms these observations. The index is constructed **(p.133)** by averaging the scores obtained by each country in three categories: 'procedural inconveniences which the employer faces when trying to dismiss employees; notice and severance pay provisions; and prevailing standards of and penalties for unfair dismissal' (OECD 1999: 54). The score for

the Netherlands is 3.1 for the 1980s and also for the 1990s. As a way to compare, the index scores for Italy and Sweden are 2.8 in both decades, Germany's is 2.7 in the 1980s and 2.8 in the 1990s, while the UK's is (not surprisingly) a low 0.8 for both periods.

The influence of government partisanship on employment protection levels is not obvious. There have been very few initiatives to modify employment protection since the late 1970s. Before the 1994 election, there was talk about eliminating prior approval 'on the grounds that existing procedures were cumbersome, costly, over-protective and inhibiting flexibility' (Visser and Hemerijck 1997: 162). This has been the argument frequently presented by the OECD, and favored by Dutch employers, in its recommendations to Dutch governments (see e.g. OECD 1996). The debate encountered strong opposition from the unions and, after the 1994 elections, the PvdA-led governing coalition did not produce any substantial changes in employment protection regulations. The second PvdA-led governing coalition (elected in 1998) did produce some changes. In 1999, a mild reduction of statutory dismissal protection for standard contracts was enacted. The approved measures (which expanded the justification for negotiated dismissals, but with the possibility of legal appeal), however, were not very substantial.

One of the reasons why high employment protection levels have not been more hotly debated is that in the Netherlands (as in Spain) flexibility in the labor market has taken the form of increasing numbers of nonstandard contracts since 1980. Nonstandard work (especially part-time) has become a shockingly large proportion of employment in the Netherlands. Part-time work rose from 16.6 percent of total employment in 1979 to 36.5 percent in 1996 (Visser and Hemerijck 1997: 30).[35] Between 1980 and 1984, the beginning of the wage moderation and employment growth that typify the 'Dutch miracle', full-time employment decreased by 12 percent and part-time employment increased by almost 28 percent (Visser 1989: 232). It is therefore clear that the extraordinary growth in part-time employment in the Netherlands is to a great extent responsible for the decrease in unemployment. Hemerijck, **(p.134)** Unger, and Visser calculate that 67 percent of the jobs created since 1982 have been part-time jobs (2000: 229). Salverda provides an even starker picture by looking at a different period and including in the analysis fixed-term employment. On balance, he argues, the great majority of Dutch employment growth between 1979 and 1997 consisted of part-time and flexible jobs—in a ratio of 3 to 1 (1999 *b*: 5).

The composition of part-time employment since 1980 has also been very specific: young people and, especially, females are almost exclusively represented in the growing part-time sector (Hemerijck 1995; van Oorschot 2004). For Dutch men, part-time employment is very occasional (restricted to the beginning or end of their work careers, see Goul Andersen and Bendix Jensen 2002). Making the connection between female participation, part-time employment, and the decrease in unemployment, Hemerijck and Van Kersbergen argue that female part-time employment is the most conspicuous factor in the improvement of the Dutch labor market since 1980 (1997: 263).

Part-time workers, however, were entitled to few employment rights.[36] In the 1980s, unions showed little interest in part-timers. Employment rights and benefits favored full-

time workers. More specifically, legal employment protection, coverage by works councils and social insurance entitlements did not extend to those working less than 14 hours per week in the Netherlands (Visser 1989; Maier 1994). This is particularly meaningful given the fact that a considerable number of female employees work very short hours (17 percent of all female workers worked less than 12 hours per week in 1994).[37] Moreover, it is difficult to assess what proportion of part-time employment is truly voluntary (Visser 1989: 232).[38]

The second kind of nonstandard work that has become an important part of the job growth story in the Netherlands is fixed-term employment. In the Dutch context, fixed-term contracts are used for the replacement of regular workers on sick leave or holiday, and for seasonal work or specific jobs (De Neubourg 1990: 99). There are also 'flexi-contracts' (also known as call-up contracts, minimum–;maximum contracts and zero-hour contracts) for work to be done whenever it is needed by the employer. The terms of a fixed-term contract (especially duration) are predetermined **(p.135)** and cannot be changed as a result of collective bargaining. In theory, if a fixed-term contract is renewed after its conclusion, it does not expire automatically any longer and it is subject to the standard rules for dismissal. In practice, employers have evaded the legal procedures. After a fixed-term contract expires, the worker is often hired on a temporary basis through a temporary work agency, and after that a 'new' fixed-term contract is signed (and so forth). The combination of fixed-term contracts and temporary work has become known as the 'revolving door' (Van Peijpe 1998: 136). As indicated by Salverda (1999 *b*) and Visser and Hemerijck (1997), fixed-term employment has become a very important part of the employment growth picture in the Netherlands. This is particularly true since 1993. While females are disproportionately represented in part-time work, fixed-term employment is especially high among young people.[39]

In terms of benefits and employment rights, precariousness has also been the rule for fixed-term contracts and what I have referred to above as flexi-contracts. Flexi-contracts were not covered by Dutch legislation and carried little legal protection (de Neubourg 1990: 101). As for fixed-term employment, Gorter and Poot show that workers on fixed-term contracts in the Netherlands had access to unemployment benefits in less favorable terms than workers with stable contracts (1999: 7).

Some improvements of the benefits and protection of part-time and temporary employment were promoted in the 1990s. In 1993, the legislation that excluded part-time employment from minimum wage requirements was abolished and in 1995 the first collective agreement for temporary workers was signed (Visser and Hemerijck 1997: 43–;4). Then in 1999, a 'Flexibility and Security' proposal was passed by parliament and the right to continued employment, pension and social security was granted after two years of work (Hemerijck, Unger, and Visser 2000: 227). These changes were relatively minor (no measure was taken, for example, to limit the use of the fixed-term/temporary employment revolving door) and took place too late to modify the general sense that in the Netherlands nonstandard employment was second class employment for most of the 1980s and 1990s.[40]

How did governments promote the emergence of outsiders in the Netherlands? Two interpretations are possible. Visser and Hemerijck have **(p.136)** argued that government policies did not have much to do with the promotion of part-time employment. 'The development towards the one-and-a-half jobs model,' they explain, 'is an example of *fortuna*, policies which prosper because they accord with the circumstances.' In support of their argument they quote the Minister of Social Affairs and Employment, Ad Melkert, who declared that part-time employment growth 'just came our way' (1997: 43). This does not seem to tell the whole story. I don't mean to deny that a number of factors unrelated to government design affected the emergence of part-time work in the Netherlands. Because of higher education attainment, smaller families, changing societal norms, and labor market uncertainty, more females wanted to enter the labor market starting in the 1970s. Part-time work became the predominant way of participating in the labor market for many women because of the absence of a comprehensive childcare system (Hemerijck, Unger, and Visser 2000: 217). Part-time work also turned out to be an attractive option for employers. Visser and Hemerijck argue that part-time employment was ideal for employers because it 'allows differentiation across groups of workers, disconnects operating hours from working hours, brings actual and contractual working hours nearer as part-time workers tend to be sick in their own time, and is reversible' (1997: 34–;5).

This interpretation underestimates, however, the influence of government policy. First, although demographic pressures certainly demanded an expansion of employment, it is not clear that entry into the labor market for women and young people had to take the form of nonstandard employment. As was the case in Spain, the existence of highly protected jobs promoted the use of flexible nonstandard contracts for new workers. In many ways, insiderness created the need for outsiderness when demographic and economic circumstances changed in the 1970s. Maintaining the levels of insider employment protection was a choice made by policymakers and they are, therefore, also responsible for the increase in nonstandard employment. Second, it is also important to point out that one of the generally recognized reasons for the increase of part-time employment and the overwhelming number of female part-timers is the absence of a childcare system (Hemerijck, Unger, and Visser 2000). The absence of a government effort to promote day-care facilities and family-oriented services clearly influenced the emergence of part-time work (see Visser and Hemerijck 1997). Finally, some analysts argue that since the early 1980s part-time employment has been promoted directly by governments, if in often informal ways (see e.g. Andeweg and Irwin 1993: 193). Part-time employment was publicly encouraged, for example, **(p.137)** in a 1987 government memorandum and it was later promoted by a 1989 tripartite recommendation (Salverda 1999 *b*: 28).

## 5.4. Employment Protection in the UK

The analysis of employment protection in the UK is mostly about the consequences of conservative government. It has been divided into three sections. The first shows how insiders were successful in securing employment protection while not committing to wage moderation in the 1970s. The second illustrates how Thatcherism meant a dramatic attack

on insiders in the 1980s. The third describes the continuation of conservative anti-insider government in the 1990s and Labour's return to power (and its weak attempts to promote insider protection).

### 5.4.1. The 1970s: Protection and Lack of Wage Moderation

Starting after World War II, efforts directed to promote wage moderation as a way to control inflation have had a long tradition in the UK. From 1948 to 1950 the Labour government led by Attlee negotiated voluntary wage restraint with the TUC. According to some analysts, this first episode of incomes policy was in fact much more successful than any of those that would follow it (Brown 1994: 33). The success was no doubt influenced by the fact that, at this time, collective bargaining in the UK was characterized by a small number of national, industry-wide agreements. The increase in inflation of the late 1950s suggested the need for the sort of incomes policy arrangement that had been so successful in 1948 but attempts to resuscitate wage moderation were not successful. To promote wage moderation in the 1960s, Harold Wilson's Labour government created the National Board for Prices and Incomes (NBPI) in 1964. The NBPI was a tripartite body not only in charge of promoting wage restraint but also of making sure that collective bargaining resulted in stable prices. The Board's independent emphasis on wage restraint, however, soon embarrassed a government more interested in exchanging pay increases for political acquiescence from labor.

In terms of employment protection, by the end of the 1960s, insiders were protected by a dismissal cost system that compared favorably with those in most other European countries. Redundancy payments had existed in the UK since 1965 when the Redundancy Payments Act was passed during Wilson's Labour government. At this time, the average **(p.138)** payment amounted to about 12 weeks' pay, although in real terms it was perhaps as much as 15 or 16 weeks' pay because redundancy payments were not taxed (Bosworth and Wilson 1980: 97–;8).[41] Insiders were also looked after by influential unions that interacted with employers in a relatively unrestricted industrial relations context.

In 1970, the Conservative Party won the election and its leaders tried to implement legislation that would transform collective bargaining, industrial disputes, and union behavior following the American model (Weekes et al. 1975). The effects of the 1971 Industrial Relations Act, however, were intensely and effectively resisted by unions (Smith 1980). Heath's electoral program had been explicitly against incomes policy. As the Conservative Party's 1970 manifesto declared: ‘(o)ur theme is to replace Labour's restrictions with Conservative incentive. We utterly reject the philosophy of compulsory wage control. (…) Labour's compulsory wage control was a failure and we will not repeat it’ (Conservative Party 1970). One of the first measures to be taken by the Heath government therefore was the abolition of the NBPI. The conservatives' disdain for coordinated wage moderation, however, ‘lasted only two years’ (Brown 1994: 35). In 1972, having failed to win TUC support to combat an ever-increasing inflation rate, Heath implemented a compulsory incomes policy with penalties for employers that did not follow wage guidelines. This approach was unsuccessful and early in 1974, coal miners engaged

in strikes to protest against the wage limitations established by the government. Challenging the miners, Heath called a general election and lost.

In 1974, Labour returned to power and repealed the 1971 Act (Brown, Deakin, and Ryan 1997). The Trade Union and Labour Relations Act of 1974 and the Employment Act of 1975 not only reversed the Industrial Relations Act but also strengthened unfair dismissal provisions. These acts expanded the rights of workers regarding redundancy and unfair dismissal, and established additional rights in relation to minimum pay, sick-leave pay, maternity rights, union membership, and union duty (Bosworth and Wilson 1980: 110).

Although the Labour Party publicly disputed the virtues of incomes policies at this point,[42] Wilson was determined to recreate a voluntary **(p.139)** agreement with the unions to promote wage moderation. At the center of Labour's income strategy was the 'Social Contract', a policy package negotiated with the TUC. The TUC agreed to promote wage restraint in exchange for favorable legislation—initially, a repeal of the 1971 Industrial Relations Act as well as price and rent controls (Dawkins 1980). In spite of inflation levels that reached 25 percent in 1975, however, the TUC could not deliver on its commitment to wage moderation.[43] The government had then to request the IMF's assistance to protect the British pound.

As a part of the IMF package, the government made sure that wage growth limits were adhered to in the public sector but it did not implement any legislation to guarantee that the guidelines were followed in the private sector. Wages increased by as much as 17.5 percent in 1975–;6. Although the IMF loan had been followed by a temporary fall in inflation, given the lack of success of voluntary wage restraint the government tried establishing a more formal wage increase objective (only 5 percent). This attempt encountered passionate opposition from the unions, which engaged in growing levels of contestation (Artis, Cobham, and Wickham-Jones 1992). This was particularly the case in the public sector, which, unlike many private companies, had suffered a substantial amount of involuntary wage moderation (Brown 1994: 36). A number of very visible public sector strikes took place in the winter of 1978–;9 (the 'winter of discontent'). The collapse of wage moderation was marked by the defeat of union leaders publicly committed to it (like Jack Jones of the Transport and General Workers' Union) in the debate about continuing cooperation with the government (Edwards et al. 1992). Eric Deakins, who from 1974 to 1979 was Under Secretary of State for Trade and for Health and Social Security, describes Labour's interpretation of union behavior at this time as both 'reactionary and lunatic'. '(F)or the sake of marginal gains in real income,' he argues, 'trade unions showed themselves prepared to take the serious risk of the return of a Tory government' (1988: 12). The winter of discontent significantly damaged the government. As Deakins noted '(r)otting rubbish in the streets, sewage in the rivers, ambulance services disrupted, bodies piling up in the mortuaries: such examples undermined Labour's claim to be able to deal with the trade unions' (1988: 12).

**(p.140)** 5.4.2. The 1980s: Anti-Insider Thatcherism

Insider protection was to drastically change in 1979 when Margaret Thatcher won the elections with a strongly antiunion message. The goals of the incoming government have been explained by Charles Bellairs (Consultant Director in the Conservative Political Centre) as follows: 'to deal with abuse of the trade union "closed shop", to protect individual trade union members against exploitation by the trade union bureaucracy and generally to correct the imbalance of power in favor of trade unions in such matters as pay negotiations' (1985: 6). The Conservative Party election manifesto declared that 'by heaping privilege without responsibility on the trade unions, Labour have given a minority of extremists the power to abuse individual liberties and to thwart Britain's chances of success' (Conservative Party 1979). The manifesto proposed limiting picketing, the closed shop, and striking as measures to reverse this tendency (Conservative Party 1979). In 1979, the context for these proposals could not have been more favorable as the popularity of unions had reached unprecedented lows (Edwards et al. 1992: 12).[44]

The Employment Act of 1980 represented the first step in the attack on insiders by the Thatcher government. Fulfilling Thatcher's election promises, the Act contained measures to: restrict the closed shop (providing compensation for people excluded from a closed shop and requiring that at least 80 percent of workers covered approved the creation of a new closed shop); limit picketing; remove provisions for obligatory arbitration when unions were trying to obtain recognition; and reduce dismissal costs (Simpson 1981). The reduction of employment protection is particularly important to my argument. As Edwards et al. have argued, the Thatcher government 'viewed employment protection provisions not as essential minimum standards but as "burdens on business" (particularly in respect of small employers) which acted as a deterrent to the employment of more people' (1992: 13). The 1980 Employment Act reduced dismissal costs in three ways: it eroded the rights of employees who had been subject to termination without cause, removed the employers' burden of proof for cause, and reduced maternity rights regarding reinstatement.

The 1980 Act was soon followed by the 1982 Employment Act, which moved further in the antiunion direction. This act restricted the definition of lawful union action to those having to do directly with the relationship between union and employer. Disputes 'not mainly' about specific **(p.141)** conditions (pay, work, jobs, etc.) were excluded from the definition, as were those that did not directly involve the workers in a particular job place. Occupations and sit-ins at the place of work were also made illegal. The immunity of trade unions from civil actions was ended and unions could now be sued for the damages that had resulted from illegal strikes. The closed shop was further limited by requiring an 85 percent approval vote (Visser and Van Ruysseveldt 1996).

The three subsequent electoral victories of Mrs Thatcher in 1983, 1987, and 1989 did not represent any change in the orientation of labor market legislation. The power of unions and insiders continued to be attacked by several legislative decisions. With the 1984 Trade Union Act, the conservative government made it more difficult for unions to defend insiders. Legal immunity was further reduced; now it not only applied to illegal actions but to any union decision to strike that had not been supported by a previous

secret ballot).[45] The 1984 Act also required a vote every five years to elect union executive bodies and every ten years to decide whether the union should have political funds. The 1988 Employment Act made post-entry closed shop (and any strike to enforce it) illegal. It also abolished unions' legal rights to discipline members for crossing a picket line during a lawful strike and it extended secret voting to any union election. The 1989 Employment Act, finally, abolished legislation extending some labor market regulations to small companies (Brown, Deakin, and Ryan 1997). It also eliminated the Training Commission (created in 1988 to substitute the Manpower Services Commission (MSC)) and removed unions from training boards. The 1989 Act also reduced the administrative costs of dismissals by making it unnecessary for employers to provide a reason for dismissals unless the employee had been continuously employed for two years (it had been six months before).[46]

In terms of coordination with the social partners, Thatcher's electoral victories represented, in essence, the end of any attempt to promote wage moderation in the UK. Given the systematic weakening of unions promoted by the conservative governments, this is hardly surprising. The market-oriented policy of the Thatcher governments, largely relying on tight monetary policy to control inflation, marked the end of more or less formal incomes policies (Chater, Dean, and Elliott 1981: 1). The **(p.142)** Conservative Party believed that a tight monetary policy would make coordination unnecessary, since trade unions would soon realize that the consequences of irresponsible wage bargaining was unemployment for their members (Rhodes 2000: 41).

### 5.4.3. The 1990s: More Anti-Insider Conservative Government and New Labour

The arrival of John Major at 10 Downing Street in 1990 did not modify the labor market policy orientation of the Tory government. The 1990 Employment Act effectively abolished the pre-entry closed shop by making the refusal of employers to hire nonunion members illegal (Brown, Deakin, and Ryan 1997). The 1990 Act also made it legal to dismiss workers who had participated in any unlawful industrial action (immunity was also removed from union officials taking actions on behalf of those dismissed for having participated in these actions).

In 1993, Major implemented the Trade Union Reform and Employment Rights Act. This Act made it legal for employers to offer employees financial enticements not to join a union. It also stipulated that employers were to get seven days warning in case of industrial action and that all prestrike votes were to be postal and to be subject to an independent count. It abolished arrangements that allowed employers to deduct union contributions directly from wages unless they were confirmed in writing every three years. The Arbitration Commission was no longer required to encourage collective bargaining and Wages Councils (and therefore any remaining minimum wage stipulations) were abolished. In addition to the fact that the UK was now the only European country without a minimum wage, the abolition of Wages Councils had important implications for the coverage of collective bargaining. The coverage of collective bargaining agreements had already drastically declined from 1984 (when it was 64 percent of employment) to 1990 (when it was only 47 percent). The disappearance of Wages Councils meant that

regulated conditions for work and pay had now been eliminated for an additional 20 percent of employed workers (Visser and Van Ruysseveldt 1996: 69).

Perhaps trying to prevent their imminent electoral defeat, in 1996 the Major government seemed to soften, but not fundamentally modify, the degree of anti-insider and antiunion measures. The 1996 Employment Rights Act made it possible for employees who had received notice to be allowed to take time off (and to be remunerated for this time) to look for another job or to get training conducive to getting another job. The **(p.143)** Act established provisions for antenatal care and it instituted that time off and remuneration would be granted to employee representatives for the performance of their duties. An unremunerated period of fourteen weeks for maternity leave (as well as the right to return to work after it) was also specified. As for dismissal costs, the 1996 Employment Rights Act established a minimum notice period of a week for those who had been in the job for less than two years and a week per year worked (up to a maximum of twelve weeks) for other workers. The Act also recognized the right of every worker not to be unfairly dismissed, although it allowed for a very loose interpretation of what constituted fair dismissal and did not apply to those employed for less than two continuous years or above the retirement age. It also stipulated the amount of compensation to be provided by employers for unfair dismissals. Compensation consisted of a basic award (equal to 1 or 1.5 weeks of pay per continuous year worked up to twenty years) and a compensatory award (to be at most equal to the basic award) to be determined by a judge.

The electoral victory of Tony Blair in 1997 and the return to office (after eighteen years) of the Labour Party resulted in timid reversals of some of the conservative attacks on insiders. Many analysts have argued that New Labour emerged as a political option sharing many Thatcherite characteristics. This was certainly the case regarding unions and wage bargaining. McIlroy argues that for New Labour trade unions had become an ‘electoral handicap’, a ‘constraint on the development of new support’, a ‘barrier to a rational-efficient party’ and a ‘potential impediment to the optimal operation of the market and to successful government’ (1998: 539). Crouch notes that New Labour shares the view that ‘(w)orkers' rights are a drag on entrepreneurial freedom, or inconvenient sops offered to keep trade unions quiet, not extensions of citizenship to the workplace which are quite likely also to improve employees' contribution to efficiency’ (1999 *b*: 69). As early as 1995, Blair had declared to the TUC that conservative antiunion legislation would be maintained not only because of electoral reasons (Blair believed the general public supported union limitations) but also because of conviction and economic effectiveness (quoted by McIlroy 1998: 542).[47] In 1996, the theme of stakeholder capitalism (a system more similar to the Rhine model with more participation of unions in enterprises **(p.144)** and policymaking) was publicly rejected by Blair (Norris 1999). In any case, after years of Thatcherism, the unions were too weak to impose any priorities on the Labour Party. Arthur Scargill bluntly described the feelings of the TUC about New Labour's lack of interest in promoting union goals. Regarding Tony Blair's speech, he declared to the 1995 TUC: ‘Tony Blair effectively turned around and told this Congress: “Get stuffed.” The tragedy was that, having done that, you applauded what he said’ (quoted by McIlroy

1998: 550). Cooperation, if there was going to be any, would have to be based on unions giving way to New Labour.

Regarding employment protection, nevertheless, some policies promoted by the Blair government differ from those endorsed by conservatives since 1979. In some respects, Blair's government has timidly promoted some pro-insider policies (although the degree to which 'insiderness' remains after Thatcher is open to question). To begin with, very soon after the elections Blair signed to the European Social Charter and accepted the European Working Time Directive.[48] Then in 1998, the Employment Rights (Dispute Resolution) Act was passed. The Act set up an arbitration system for unfair dismissals.[49] It amended previous trade union and labor relations acts and made it possible for the Advisory, Conciliation, and Arbitration Service (ACAS) to provide an arbitration scheme in case of unfair dismissals, sex discrimination disputes, etc. The Act also established settlements for redundancy cases and internal appeal procedures for unfair dismissals. In the same vein, the Blair government also passed in 1998 the National Minimum Wage Act. The Act instituted a minimum wage and established the Low Pay Commission as the governmental agency in charge of setting and implementing the minimum wage. Rhodes calculates that, although there have been significant implementation problems, minimum wage legislation has resulted in wage increases of up to 40 percent for about 2 million workers (2000: 60). The 1999 Employment Relations Act, finally, tried to reverse some of the policies developed by the previous conservative governments regarding collective bargaining. The Act promoted the recognition of unions (40 percent of the vote needed for recognition and automatic union **(p.145)** recognition where 50 percent of workers belong to a union),[50] attempted to abolish discrimination by employers of union members (e.g. by making the use of blacklists illegal and dismissal for union activities unfair), and allowed union participation in training schemes. Some protection against unfair dismissal was also extended to all workers after twelve months of service.

While Blair's first government could be considered to have taken a few measures in favor of insider protection (even if faint-hearted), it was clear that New Labour had no interest in promoting wage moderation as a policy objective. There have been occasional vague references about creating some sort of national forum where ministers, trade union leaders, and employers would discuss pay arrangements. But they have not resulted in any specific proposals. The main reason for this is that New Labour does not believe in the centralization or coordination of wage bargaining as a way to control inflation. As Mandelson and Liddle made clear, New Labour believes that centralized incomes policies are no longer appropriate. Instead, they continue, the Labour government 'should promote increased flexibility in the setting of employee rewards that genuinely relate pay to performance' (quoted by Dorey 1999: 197). As far as coordination goes, New Labour seems to share the neoliberal views of the previous conservative governments and to defend tight monetary policy as the best way to control inflation.

The absence of any attempt to promote wage moderation in the UK since the end of the 1970s is, I would argue, understandable. In Spain and the Netherlands, wage moderation was offered by insiders as a concession to governments so that employment

protection levels could be maintained. In the UK, conservative governments had already decided to attack insider employment protection in 1979. They had no incentives to promote coordinated wage moderation when they were convinced that union weakness was a better outcome (it reduced the power of insiders and promoted unregulated wage determination). In addition, in the UK neither unions nor employers have traditionally supported coordination.

Focusing on the interests of unions first, the rhetoric of 'free collective bargaining' has been very attractive to unions in the UK. Historically, unions have been against any intervention that interfered with their collective bargaining role or their internal affairs. This, according **(p.146)** to Mayhew, 'is the problem with an incomes policy: to some degree it diminishes the collective bargaining role of the union' (Mayhew 1981: 32). As a consequence, as Edwards et al. point out, '(e)xcept in periods of exceptional economic crisis (1948–;50, 1975–;6) British unions have always vigorously resisted any notion of wage restraint' (1992: 46). Ken Gill, the General Secretary of the Amalgamated Union of Engineering Workers and member of the General Council of the TUC in 1981, candidly describes the approach of unions in the UK to wage moderation. 'The *raison d'être* of the trade union,' he explains, 'is to improve, or at least to safeguard, the real value of the salaries and conditions of its members' (1981: 184).

As for employers, they have strongly opposed any restraints on their autonomy (Mayhew 1981). Dermot Glynn, the Economic Director of the Confederation of British Industry in 1981, expounds on this point by noting that the inevitable disadvantage of incomes policies 'is the reduction of the employer's discretion to pay the levels of wage and salary that market forces make necessary' (1981: 210). Although wage restraint is theoretically attractive, employers have therefore been firmly against incomes policy in the UK. This has been particularly the case since 1979, when labor market legislation substantially increased their bargaining power with unions and employees.

Notes:

(1) Christen Democratisch Appèl (CDA) and Volkspartij voor Vrijheid en Democratie (VVD).

(2) My translation.

(3) Although the preeminence of UGT and CCOO has been maintained, since the early 1980s public sector unions have experienced very significant growth.

(4) For a more detailed explanation, see Führer (1996: 132–46).

(5) In interviews, union officials informally declared that more than 90 percent of members are insiders.

(6) In companies with more than ten workers but less than fifty, there are elections for delegados de personal and in companies with fifty workers or more there are elections for comités de empresa (see Ministerio de Trabajo y Asuntos Sociales 1998).

(7) Union density was about 40 percent in the 1950s and 1960s, slowly declined in the 1970s and dramatically fell to 25 percent in the 1980s. In the 1990s, union density has increased to about 30 percent. For more details, see Ebbinghaus and Visser (1996).

(8) As with Spain's PSOE, some union leaders have had successful political careers in the PvdA. The most notable example since the early 1970s is Wim Kok, FNV leader in the 1970s, PvdA Finance Minister from 1989 to 1994, and Prime Minister from 1994 until 2002.

(9) Some workers are excluded. Although it is difficult to find data on exclusion rules, this group mostly consists of low-paid workers in noncore activities like cleaning, catering, doormen, etc. (Hartog, Leuven, and Teulings 1999).

(10) Data from Ebbinghaus and Visser (2000).

(11) See Minkin (1992) and Ludlam and Taylor (2003) for a detailed analysis.

(12) See e.g. Rhodes (1997).

(13) Center-Right party in power until 1982.

(14) In the following pages, temporary employment is used to describe fixed-term contracts (as opposed to the standard indefinite contracts of Spanish permanent workers).

(15) This follows the explanation provided by Toharia (1993).

(16) See Hamann (1999: 13–14).

(17) In effect, the PSOE government tried to offer a deal to stable workers: the high levels of employment security that they enjoyed would be continued and in return they would moderate their wage demands. As the following paragraphs will make clear, this trade-off in fact dominated PSOE's employment policies until 1996 when they lost power.

(18) UGT's participation is hardly surprising but CCOO's seems to be the result of its leadership not wanting to publicly oppose a socialist party that had just won the elections by a surprising majority.

(19) This was made very clear by Nicolás Redondo, the General Secretary of UGT, when in the 1987 Confederal Committee meeting he declared: ‘coordination is no longer possible, it was possible during the democratic transition because we were looking for political legitimacy’ (quoted by Morán 1996: 49, my translation).

(20) My translation.

(21) Different analysts have argued against the interpretation of the Youth Employment Plan as the most important reason for the general strike (see the collection of El País articles in Juliá 1988). The PSOE's continued emphasis on wage moderation and the

proposed austerity in public spending seem to be more important factors influencing the strike.

(22) The training contract (contrato de formación) was abolished. Since the learning contract did not have fiscal incentives (like the reduction of social security contributions), it was hoped it would contribute to the control of the budget (Alba Ramírez 1996: 17).

(23) I would argue, however, that the cooperative attitude of the conservative government resulted from the limited nature of their electoral victory. Although this situation would change in 1999, when the conservative party was confirmed in power by a majority as overwhelming as the one enjoyed by the PSOE in 1982, Aznar's first government was weak enough (needing the support of the regional parties to pass legislation) to be interested in attaining a degree of consensus before transforming the basis of labor market regulations.

(24) The only difference between this contract and the standard indefinite contract is that the compensation for termination without cause was lower (thirty-three days per year worked, up to twenty-four months).

(25) Its maximum length was two years unless extended by collective bargaining to a maximum of three.

(26) The rejection by insiders of even these concessions was reflected in the vocal opposition to the pact by Izquierda Unida (the Communist lead coalition party) and a critical sector of CCOO headed by Agustín Moreno. This opposition was particularly clear in the public demonstrations of May 1, 1997 (see El País of May 2, 1997).

(27) The reforms did in fact take place just as predicted, without union support, in 2001.

(28) In the less detailed quantitative analysis in Chapter 4, the Netherlands belonged to the group with intermediately high levels of employment protection (using the measure in Baker et al. 2004).

(29) Because of the long notification periods and prior consent requirements, Dutch law provides no statutory right to severance pay in case of dismissal (Van Peijpe 1998: 145). The judicial practice of awarding damages (one month salary for every year worked) has become a kind of unlegislated severance pay.

(30) See e.g. Visser and Hemerijck 1997.

(31) For a critical analysis of the degree to which shorter working time arrangements took place (or did not) after 1982, see Visser (1989: 240–1).

(32) Although one of the publicly acknowledged reasons why working time was being reduced for those with stable employment was the reduction of unemployment, it was soon very clear that the effects were minimal. According to a 1985 survey of companies working in the Netherlands, no employment effects had resulted in 78 percent of all firms

which had introduced shorter working hours since 1982 (Visser 1989: 241). This was not surprising. According to Visser, a policy pursuing working-time reduction to promote employment would have to be matched by vacancy refilling and recruitment measures (1989: 241). This was not the case in the Netherlands.

(33) At this time, however, union membership decline had stopped and the unions were feeling confident enough to organize a series of strikes in the industry, transport, education, and health sectors.

(34) In 1994 and 1998, the PvdA formed a governing coalition with VVD and D66. It is referred to as the purple coalition because of the mixing of the social democratic red with the conservative blue.

(35) The Netherlands has become the country with the highest proportion of part-time employment in the OECD.

(36) In Chapter 7, I analyze in more detail the relationship between hours worked and social benefits.

(37) For details, see Visser and Hemerijck (1997: 30–1).

(38) A survey in the Netherlands posed the question of whether we should talk about part-time employment or part-time unemployment (OECD 1996). In other words, are the Dutch voluntary part-timers or part-timers who cannot find full-time employment?

(39) Flexible work is also concentrated among those with the lowest educational levels (van Oorschot 2004).

(40) For evidence showing that flexible employment is still not socially protected in the Netherlands, see van Oorschot (2004).

(41) The number of people entitled to redundancy, however, was small. Workers younger than 18 years and those who had been in the job for less than 2 years were automatically excluded. Even in 1971, during the recession, they amounted to about 12 percent of registered unemployment (Bosworth and Wilson 1980).

(42) See Dawkins (1980) for details.

(43) According to some observers, the absence of wage restraint was not so much the result of a lack of commitment by the TUC but of its inability to control the demands of local unions.

(44) In a survey conducted in 1978, 82 percent of respondents believed that unions had too much power (Visser and Van Ruysseveldt 1996: 49).

(45) This had become a particularly important issue after previous strikes by coal miners that had not been voted on.

(46) Through the 1980s, in addition to the developments already mentioned, legislation changes had added a number of new factors (like company size or administrative problems) to the already long list of circumstances that could be considered by Industrial Tribunals when deciding the unfairness of a dismissal.

(47) Dorey colorfully describes New Labour's attitude toward unions as follows: ‘Ernest Bevin famously remarked that the Labour Party grew out of the bowels of the trade union movement, but today, it is New Labour which seems to view the trade unions as excrement’ (1999: 190).

(48) The initial impression that New Labour would embrace more comprehensive worker rights through European Union channels was, however, soon corrected. Taking the side of employers, the Blair government was strongly against the establishment of more formal consultation and information mechanisms (a part of the Social Charter).

(49) The ambitious program of increasing employment rights that Kinnock and Smith had espoused was, however, downplayed by Blair (McIlroy 1998: 543).

(50) The effects of these measures, however, were estimated to be very limited given the low levels of support for unions. Automatic union recognition if 50 percent of workers are union members, for example, was calculated to affect only 2 percent of workplaces without union recognition (see Cressey 1999: 185).